

SITTING AS COURT OF IMPEACHMENT

JOURNAL OF THE SENATE

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Thursday, August 1, 1957

The Senate, sitting as a court for the trial of Article of Impeachment against the Honorable George E. Holt, Circuit Judge for the Eleventh Judicial Circuit of Florida, convened at 9:30 o'clock A.M., in accordance with the rule.

The Chief Justice presiding.

The Managers on the part of the House of Representatives, Honorable Thomas D. Beasley and Honorable Andrew J. Musselman, Jr., and their attorneys, Honorable William D. Hopkins and Honorable Paul Johnson, appeared in the seats provided for them.

The respondent, the Honorable George E. Holt, with his counsel, Honorable Richard H. Hunt, Honorable William C. Pierce and Honorable Glenn E. Summers, appeared in the seats provided for them.

By direction of the Presiding Officer, the Secretary of the Senate called the roll and the following Senators answered to their names:

Adams	Carlton	Getzen	Morgan
Barber	Carraway	Hair	Neblett
Beall	Clarke	Hodges	Pearce
Belser	Connor	Houghton	Pope
Bishop	Davis	Johns	Rawls
Boyd	Dickinson	Johnson	Shands
Brackin	Eaton	Kelly	Stenstrom
Branch	Edwards	Kickliter	Stratton
Cabot	Gautier	Knight	

—35.

A quorum present.

SECRETARY DAVIS: Thirty-five present, Mr. Chief Justice.

CHIEF JUSTICE TERRELL: We will pray.

SENATOR CONNOR: May we bow our heads in a word of prayer.

Supreme Architect of the Universe, we thank Thee for the opportunity of prayer. We can hear Thy dear small voice saying, "Be still, and know that I am God."

We realize that we are weak; we realize that we have sinned. Forgive us our sins, we pray Thee. We ask Thy abundant blessings upon our common task. Be by our side as we sit as members of this Court in these impeachment proceedings. Give us the ability to judge right from wrong. Temper our decisions with both justice and mercy. May we seek diligently for the truth and then, when we discern truth, give us the courage to stand by our convictions.

Deliver us from the influences that would cause us to swerve in our responsibilities and duties.

And in all things we would give Thee all praise, honor and glory through our Lord and Savior, Jesus Christ.

Amen.

THE SERGEANT-AT-ARMS: Hear ye! Hear ye Hear ye!

All persons are commanded to keep silence, on pain of imprisonment, while the Senate of the State of Florida is sitting for the trial of Article of Impeachment exhibited by the House of Representatives against the Honorable George E. Holt, Circuit Judge of the Eleventh Judicial Circuit of Florida.

By unanimous consent, the reading of the Journal of the

proceedings of the Senate, sitting as a Court of Impeachment, for Wednesday, July 31, 1957, was dispensed with.

The Senate daily Journal of Wednesday, July 31, 1957, was corrected and as corrected was approved.

Thereupon,

DOCTOR W. TRACY HAVERFIELD,

a witness called and duly sworn in behalf of the Respondent, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HUNT:

Q Will you please state your name?

A Tracy Haverfield.

MR. BEASLEY: What?

MR. HUNT: Pardon?

MR. BEASLEY: What is his name?

MR. HUNT: Did you say something, Mr. Beasley?

MR. BEASLEY: Yes. I was asking his name again.

THE WITNESS: Tracy Haverfield.

BY MR. HUNT:

Q Will you spell it for the House Manager?

A T-r-a-c-y H-a-v-e-r-f-i-e-l-d.

Q Will you state your profession or occupation?

A I am a neurological surgeon.

Q Where do you practice, doctor?

A In Miami, Florida.

Q How long have you practiced in Miami, Florida?

A Since January of 1946.

Q Will you briefly sketch your professional educational background for the Senate?

A I graduated from Ohio State University in 1936, College of Medicine, with MD Degree; spent four years at the University of Chicago, Billings Hospital, in the study of neurology and neural surgery. I entered into the practice at Jacksonville, Florida, with Doctor James Lyerly. I entered the Army in 1942 and spent four years in the Army as a designated neural surgeon, in neurosurgical centers in Texas to California, and I have since been practicing neurosurgery in Miami, Florida, since January, 1946.

Q Doctor, I know you are unaccustomed to one of those things in front of your face (indicating microphone) but if you will pull it just a little closer to you.

A A little closer?

Q Yes. You will have to speak out a little bit more.

A Yes sir.

Q Were you, in December of 1955, engaged in practice in association with Doctor Theodore Von Storch?

A Yes sir.

Q Were you, on the day following an automobile accident

to Judge Holt, to wit, December 21, 1955, some time during the morning, called to attend Judge Holt?

A I saw him at approximately nine o'clock that morning.

Q Will you, by reference to such notes or memoranda as you may have before you, advise the Senate of Judge Holt's condition and what you did in connection with his case, and what you found?

A Yes sir. He was unconscious, in a semi-critical condition. He had lacerations about the left ear and left side of his face. He did respond to painful stimulation, but he did not respond to questions nor could he carry on any logical conversation.

He gave evidence of having rather severe bruising of his entire brain. My first consideration was the possibility of a blood clot or some type of situation which might require surgery.

My examination at that time did not reveal any evidence of the existence of anything of that nature. He was placed on conservative treatment, with careful observation for the development of any gross situation which might require a change of treatment.

Q What later developed, Doctor, in connection with the treatment of that case?

A He gradually improved. After a period of about ten days he became conscious and rational, and his progress was a progressively improved one, and he eventually was discharged from the hospital on January 18, 1956.

Q He was in the hospital, then, from the early morning of December 21 to January 18?

A That is correct.

Q Doctor, during the course of Judge Holt's convalescence did you discover or ascertain that he had suffered any loss of memory as a result of his automobile accident?

A After he became conscious and rational, I questioned him about what he remembered regarding the accident and, as is commonly found in such an accident, there was a period of hours before the accident that he remembered none of the details of what had happened. In my experience, this is not --

MR. HOPKINS: If the Court please, let me interrupt the witness just a minute. We object to that as being hearsay, and anything that Judge Holt said at that time would be a self-serving declaration.

MR. HUNT: It is a result of the doctor's examination, Your Honor please, in the hospital.

MR. HOPKINS: Maybe I didn't understand the question.

MR. HUNT: He can state the examination and the results of it.

CHIEF JUSTICE TERRELL: State the examination, doctor, but don't relate any hearsay.

A I said as a result of my examination and interrogation of Judge Holt when he became conscious and rational I came to the conclusion that he did not remember anything for several hours prior to the accident.

Q I will ask you to state, doctor, if there is any medical term for such a result following head injuries of that type?

A That is known as retrograde amnesia, and it is a common finding in such an accident.

Q Will you explain to the Senate from what injury such a result proceeds.

A Any accident resulting in a period of unconsciousness may produce a loss of memory prior to the accident.

Q Doctor, if that injury had been sufficiently severe, would the patient have remained in coma until death?

A I have seen many patients who have remained in coma until death. I have had many patients who remained unconscious for six weeks before recovering consciousness.

Q Now, is there a variable factor there, upon recovering

consciousness from a long period of unconsciousness? Do all patients completely recover their memory or do a considerable portion of them fail to recall what happened for some time prior to the injury?

A A fairly large percentage of patients that I have seen who have only been unconscious for maybe a few moments will still have a period of retrograde amnesia. It will vary from patient to patient, but it has no correlation with the period of time in which they're unconscious.

Q It depends upon the factor of a physical injury to the brain. Is that correct?

A That is correct.

Q Have you seen and treated Judge Holt subsequent to his discharge from the hospital?

A I have seen him on several occasions in my office and once at his home.

Q Is it or is it not your opinion that except for the factor of some retrograde amnesia, about which we just talked, that Judge Holt has fully recovered from the effects of that accident?

A He has.

Q When you first saw Judge Holt on the morning of December 21, 1955, did you inquire or make any effort to determine his condition upon admission to the hospital with reference to sobriety or insobriety?

A I did.

Q What did you do in your investigation upon that question?

A Well, all of my questioning of people that had seen him --

MR. HOPKINS: If the Court please, we object to that statement. What he inquired and the answers he got I don't think would be --

MR. HUNT: I haven't asked him for the answers yet, if the Court please. I am asking the man for his investigation -- what he did.

MR. HOPKINS: I object to that as being --

CHIEF JUSTICE TERRELL: I think the witness can testify as to the result of his investigation, but not as to matters he gathered from other people.

MR. HUNT: Will you answer the question?

THE WITNESS: As a result of my investigation --

MR. HOPKINS: If the Court please, I didn't understand the ruling of the Court. I just want it clear.

CHIEF JUSTICE TERRELL: I say the witness can testify as to the result of his investigation.

MR. HUNT: Answer the question.

A As a result of my investigation into that question, I have -- I came to the conclusion that there was no evidence of him being anything but sober.

MR. HUNT: Take the witness.

CROSS EXAMINATION

BY MR. JOHNSON:

Q Now, Doctor Haverfield --

MR. HUNT: Your Honor please, as I understand the Rule, one attorney is supposed to handle the examination of a single witness. Mr. Hopkins started out in the handling of this witness, and I ask for an invocation of the Rule. I ask the Court to instruct that Mr. Hopkins direct the Cross Examination of the witness. If the Court please, we are a little tired of being teamed up on by a super-abundance of counsel.

MR. BEASLEY: If the Court please, Mr. Hopkins hadn't undertaken to examine this witness. He only objected to questions that were asked the witness by counsel for the Respondent.

MR. HUNT: May I inquire of the Manager if he has one objector as well as one interrogator?

MR. BEASLEY: I don't see any reason why we shouldn't have, if the Court pleases, because on numerous occasions I have objected to things here where other attorneys in the case handled the questioning of the witness. The mere fact that an attorney objects doesn't mean that he is handling the witness.

MR. HUNT: Your Honor please, the Honorable House Manager now makes the third attorney from the prosecution table who has had something to say during the interrogation of this witness, and I think it is unfair.

CHIEF JUSTICE TERRELL: I don't think, Mr. Hunt, there was an interrogation of the witness on the part of Mr. Hopkins. Mr. Johnson can interrogate the witness.

BY MR. JOHNSON:

Q Doctor Haverfield, did you state how long you had known Judge Holt prior to the accident occurring on December 20, 1955?

A I didn't state, no.

Q Will you state, please?

A I don't know exactly. I have been appearing in the Courts of Dade County almost ever since I've been practicing there. I would have to estimate at least eight or ten years.

Q In what capacity had you been appearing in these Courts?

A As a Court-appointed physician, as a physician for the defense or the plaintiff, as the case might be.

Q How many times has Judge Holt appointed you to serve as a Court-appointed physician in Dade County?

A I don't have the exact record, but I presume it has been a number of times.

Q Could you estimate how many times, Doctor Haverfield?

A Over a period of ten years I could not, no.

Q Would it be a fair statement to say that he has appointed you frequently over a period of ten years to appear in cases as a Court-appointed physician?

A I don't know your definition of "frequently."

Q Well, you tell me your definition, and perhaps we can arrive at it.

A Frequently could be once or twice a week or once a month. It hasn't been that often.

Q How often has it been, Doctor Haverfield?

A I don't know.

Q Would you say numerous times he has appointed you as a Court-appointed physician to examine persons before his Court?

A I would have to make a guess, if that will satisfy you. I suppose I have testified as a Court-appointed physician on an average of four or five times a year.

Q On these occasions, of course, your fees for special services would be approved by Judge Holt. Is that correct?

A I presume so.

Q Have you ever treated him as his personal physician prior to this unfortunate occurrence on December 20, 1955?

A No sir.

Q When was the first time you saw him, Doctor Haverfield, after the accident?

A December 21, 1955, at approximately nine o'clock in the morning.

Q Did you talk to him at that time, Doctor Haverfield?

A I did, but he didn't answer.

Q When was the first time he was able to answer you?

A About ten days or two weeks after the accident.

Q In other words, you were not able to actually speak to him until ten days or two weeks after the accident. Is that correct?

A I could speak to him, but he couldn't answer.

Q You were unable to get a vocal response from him until --

A That's correct.

Q In some ten days or two weeks was he able to converse with you intelligently concerning what had occurred?

A At about that time I thought his responses were intelligent and that he was aware of his surroundings. It is true that earlier than that he may have made some utterances or remarks, but they had very little intelligence connected with them.

Q At the time that you were able to talk to him, some two weeks later, is it true that it had become fairly common knowledge that Judge Holt had been drinking prior to the accident?

A Not to my knowledge it hadn't.

Q You had not heard any discussion of that?

A No sir.

Q Do you know whether or not Judge Holt had heard any discussion of the fact that there was an accusation that he had been drunk prior to the --

A I doubt it, because I didn't allow him to have any visitors.

Q Of course, you were not there all the time and you don't know what happened in your absence?

A I had a little control over who was around him.

Q Did his family have an opportunity to visit him?

A They did.

Q And his friends, such as Judge Prunty and other close friends?

A One or two of them might have, but not too many.

Q Did Judge Prunty visit him during that period of time, to your knowledge -- or do you know?

A I don't know.

Q It is entirely possible that he could have?

A Yes, it is possible.

Q Do you know whether Judge Prunty went to the hospital the night of the accident shortly after Judge Holt was admitted?

A I can't tell you that, either.

Q Do you know whether Judge Prunty was at the same party that Judge Holt was, prior to the accident?

A By hearsay, I understand he was. I have no personal knowledge.

Q In other words, isn't it entirely possible, Doctor, that, prior to the time you talked with him and formed your conclusions, he had been apprised of the fact that there were accusations against him having been drunk at the time of the accident?

MR. HUNT: Do you mean prior to nine o'clock that morning?

MR. JOHNSON: Prior to the time he actually talked to him some two weeks later, in which he gave a response.

A I presume that could have happened some time, without my knowledge.

Q Now, you have described this retrograde amnesia. Aren't the symptoms of retrograde amnesia what you doctors call subjective symptoms, rather than objective?

A That is correct, yes.

Q In other words, by "subjective" we mean what the patient tells you, as opposed to what you discover, unconnected with what the patient tells you. Is that, generally, the difference?

A That's the difference between objective and subjective.

Q So your opinion and your findings as to amnesia are based in large degree upon what Judge Holt told you some ten days or two weeks after the accident, during which period of time a number of his friends apparently had an opportunity to visit him. Is that correct?

A Plus my experience in previous cases of that nature.

Q Doctor Haverfield, you said you made an investigation to determine whether Judge Holt had been drinking at the time he was admitted. Will you give me the names of the persons that you talked to, please?

A I made the investigation to find out all the facts. Whether he had been drinking or not was merely one of them, because it was important to me, in treating the patient, that I know all the information that was available. The people that I talked to, specifically, were my associate, Doctor Von Storch, who had seen him shortly after he came into the hospital, and I discussed it with several of the house officers at the time, but I can't remember their names now.

Q What nurses did you discuss it with, for example?

A I don't know their names.

Q Could you give me a physician?

A Well, several of them worked on the floor and some of them worked in the Emergency Room, but I didn't inquire their names at the time.

Q Do you have any recollection of the nurses in the Emergency Room that you discussed his condition with?

A Not by name.

Q Doctor Haverfield, have you known occasions in which a person has become intoxicated after a certain point in the evening, so intoxicated that he had no recollection of the events that transpired after a certain point in the evening?

A I presume that could happen.

Q I mean that certainly is a reasonable conclusion in certain cases where a person has drunk too much, isn't it?

A Medically speaking, I think so.

Q Medically speaking, that could happen, could it not?

A Yes.

MR. JOHNSON: That is all. We have no further questions.

RE-DIRECT EXAMINATION

BY MR. HUNT:

Q Doctor Haverfield, with respect to your occasional Court appointments by Judge Holt to serve the Court as an examining physician in a professional capacity, have you likewise received such appointments from other members of the Circuit Bench in Dade County?

A I think about equally so.

Q Did you bring any information with respect to that subject with you?

A No. I didn't know we were going into that. I don't know how I would find it out, anyway.

Q Do you recall whether you have been appointed by Judge Wiseheart?

A I have.

Q Judge Milledge?

A I have been.

Q Judge Giblin?

A I have been.

Q Judge Cannon?

A Yes.

MR. JOHNSON: We object to that, Your Honor. Just ask him who he was appointed by, I think is the proper way.

MR. HUNT: I am sorry I don't do to suit you, but I think it is proper cross examination.

CHIEF JUSTICE TERRELL: Objection overruled.

MR. JOHNSON: This is re-direct examination, I understand, and not cross examination, if the Court please.

MR. HUNT: Your Honor, I can't take the responsibility for counsel's understanding. I have a right, since he went into the question—

CHIEF JUSTICE TERRELL: The objection is overruled.

BY MR. HUNT:

Q Will you name the Circuit Judges who have appointed you?

A Well, I think all of them except the ones that have been appointed in the last few months.

Q From your examination of the patient and from your experience, is it your best medical conclusion that Judge Holt suffered and suffers from retrograde amnesia so far as the occurrences some time prior to the accident are concerned?

MR. JOHNSON: We object to that, Your Honor, as being a leading question and a summing up of testimony, and argumentative.

CHIEF JUSTICE TERRELL: The objection is overruled.

A Yes sir.

MR. HUNT: That is all.

RE-CROSS EXAMINATION

BY MR. JOHNSON:

Q I have one other question, Doctor Haverfield. Is it true that in the Jackson Memorial Hospital and other hospitals in which you have practiced, that it is not at all an uncommon procedure to have a blood alcohol test performed to determine the question of whether a person is intoxicated at the time he is brought to the hospital suffering an accident such as Judge Holt suffered?

A It is not uncommon to take a blood alcohol on a patient if the clinical evidence seems to indicate it.

Q I say it's not an uncommon procedure. Is that right?

A That's what I said.

MR. JOHNSON: That's all we have.

RE-DIRECT EXAMINATION

BY MR. HUNT:

Q Doctor, do you know whether or not it is common or uncommon to take a blood alcohol from the patient in an unconscious condition, such as Judge Holt was?

A It is not usually done.

MR. HUNT: That is all.

MR. JOHNSON: That is all.

MR. HUNT: Witness excused as far as we're concerned, Your Honor.

CHIEF JUSTICE TERRELL: Come down, Doctor.

MR. JOHNSON: Just one moment, Doctor.

RE-CROSS EXAMINATION

BY MR. JOHNSON:

Q I don't know whether I understood your last answer. Let me ask you another question. From your knowledge of

emergency room procedure when somebody is brought in unconscious from an accident such as this, is it customary to run some kind of test to see whether or not that person is intoxicated?

A No, it is not customary to do so.

Q Wasn't that same question asked you before when you appeared before the Bar Association Committee—excuse me—the Committee investigating the matter for the House of Representatives—and in answer to that question you said it is not uncommon for them to do so?

MR. HUNT: Will counsel read to the witness the question to which he refers? That is the proper method.

Q Do you understand my question, Doctor?

A Yes, I understand. You asked me a few minutes ago if it were common procedure. I said it was not uncommon to do blood alcohol. You asked me if it was common to do it on most patients that came in in the state in which Judge Holt came in and I said no, that it was not ordinarily done.

Q Isn't a blood alcohol test a fairly accurate determination of the condition of the patient as to his brain?

A Yes, the same as many other laboratory tests when you have a condition where you can do the test, but we don't just test indiscriminately, when it isn't clinically indicated.

Q But do you have confidence in the blood alcohol test when it is performed by a competent chemist or a pathologist?

A Certainly I do.

MR. JOHNSON: That is all.

MR. HUNT: Come down. You are excused, Doctor.

(Witness excused).

MR. HUNT: Will you call Mr. Gschwind, please?
Thereupon,

CHARLES JOHN GSCHWIND,

a witness previously called for the House Managers, and duly sworn, being now called in behalf of the Respondent, was examined and testified as follows:

(At this point a blackboard bearing a chalked diagram was brought in and set up before the Members of the Senate).

DIRECT EXAMINATION

BY MR. HUNT:

Q Officer Gschwind, you were called here as a witness by the prosecution, I believe, and testified in connection with the Northwest 2nd Avenue and 62nd Street accident of Judge Holt?

A That is correct.

Q Is that correct?

A That is correct.

Q Have you, during our examination of the first witness this morning, at my request, undertaken to reproduce on that large blackboard the drawing which is contained upon your official report of the accident on the night of December 20, 1955, in which Judge Holt was injured?

A Yes, I have.

Q Will you point out to the Senate - - you might turn around to the side a little bit, so these gentlemen can see.

MR. HOPKINS: Judge Hunt, I wonder if we could put that back a little further, so that we might see what is going on also?

MR. HUNT: Well, the witness chair is there, and if we get it way over there we won't be able to see it. You can turn it around. I don't know what we can do. Can you

stand a little more to the side, so these gentlemen back this side can see?

May I ask you if there is such a thing as a ruler, or something, that the witness can use as a pointing stick? That will enable him to stand further to the side.

(The witness was provided with a ruler to use as a pointer).

BY MR. HUNT:

Q Officer Gschwind, I will ask you to denote to the Senate Northwest 2nd Avenue on your drawing.

A This is Northwest 2nd Avenue, running straight up and down.

MR. HUNT: I believe they can hear you, if you talk in that kind of voice.

THE WITNESS: All right.

Q Go ahead.

A This is Northwest 2nd Avenue, running straight up and down.

Q Which direction is north?

A North is straight up.

Q And your automobile, preceded by Judge Holt's automobile, was headed in a northward direction on Northwest 2nd Avenue. Is that correct?

A That is correct.

Q Now, will you denote Northwest 62nd Street?

A Northwest 62nd Street is this way.

Q Is there a signal light in the center of that intersection?

A Yes sir, there is. There is a traffic light in the middle here.

Q From which direction was the motorcycle proceeding?

A The motorcycle was proceeding east on 62nd Street.

Q From west to east?

A That is correct.

Q Is west off to the left of the picture?

A Yes sir, west is off to the left.

Q Now, you have denoted, near the center of that intersection, two figures, one apparently headed north. Is that correct?

A That is correct.

Q And one apparently headed east. Is that correct?

A That is correct.

Q With reference to the first figure, headed north, what does that denote?

A That denotes the automobile driven by Judge Holt.

Q At the point of impact?

A Yes.

Q What does Figure number 2 denote, headed apparently in an eastward direction?

A That denotes a 1947 Harley-Davidson, driven by Mr. Feitelson.

Q Will you make reference to your official report and answer this question: Did you measure the point of impact from the center line of the intersection or from the curb, and place it in your report?

A Yes, we did.

Q Will you refer to that portion of your report and read it?

A The point of impact was twelve feet eight inches north of the south edge of 62nd Street.

Q Will you show that on your chart?

A That would be twelve feet eight inches north of this south edge here, up in this area (indicating), and the point of impact was also ten feet west of the east edge of 2nd Avenue, ten feet west of this edge, from here to here (indicating).

Q Now, ten feet west of the east edge—would that or not place Judge Holt's car on his righthand side of the road as he headed north?

MR. JOHNSON: Now, we object to these leading questions, Your Honor.

Q Well, would it, then? Leave out the "or not."

A Yes, it would.

Q Does your drawing indicate from your measurements and from your findings on that occasion that the point of impact was on the east or the west side of the center line of 2nd Avenue?

A The point of impact was on the east side of the center line of 2nd Avenue.

Q Now, there has been testimony, Mr. Gschwind, before the Senate to the effect that the motorcycle was proceeding at approximately five miles per hour at the time of impact and that the automobile struck the motorcycle. Can you state whether or not, from your observation—or state from your observation what happened in that connection?

A Well, that motorcycle was definitely going more than five miles an hour. The point of impact, as we were behind this car, as is on our report—it swerved to the right and recovered and cut sharply to the left and ended up in this position here. The motorcycle, in turn, after impact bounced off and ended up in this position here. The motorcycle was definitely going faster than five miles an hour.

Q Can you state which vehicle struck the other, from your examination and investigation on the spot of that accident?

A Well, the physical evidence indicates that the impact was on the left front of the Jaguar and in the left door area, and the impact was on the front part of the motorcycle; therefore I would say that the motorcycle would have to have struck the car.

Q On the car's side of the highway? Is that correct?

A Definitely on the car's side of the highway.

MR. HUNT: Take the witness.

CROSS EXAMINATION

BY MR. JOHNSON:

Q Mr. Gschwind, I can't see too well from here, but is that a dotted line?

A This one over here?

Q What is that dotted line? What does it indicate?

A That indicates the center line. There is a yellow center line on the concrete surface there.

Q What do those interrupted lines with arrows on them indicate?

A They just indicate the possible path that the vehicle had taken. It cut to the right and then to the left. It just indicates how the car moved after the point of impact and ended up in that position.

Q What do you base that upon?

A On my having seen the car do this.

Q You actually observed the car swerve?

A Oh, yes. I saw the car go to the right, then cut sharply to the left. At first I thought he went up 62nd Street, but he went back toward this building over here and came to

rest. He struck a sand pile in this alleyway here, ran onto the sand pile and came to a complete stop.

Q Did he hit the right-hand curb on Northwest 2nd Avenue?

A I don't know if there is a curb there. I don't believe—he came very close to it, if not on it.

Q He almost struck the curbing on the right-hand side of the road. Is that right?

A If there is a curb there he would have run on the curbing.

Q Who drew that plat?

A I drew it.

Q And your estimation of the course of the Jaguar after the impact was based upon the same physical evidence that you observed, that you have based your other conclusions on. Is that right, sir?

A Yes.

Q Were there any skid marks showing the possible path of this Jaguar?

A No, no skid marks.

Q Or is that just a guess upon your part. Is that right, sir?

A Well, I wouldn't say a guess. I saw the car go this way, and I drew that as the path, to the best of my ability.

Q You have seen the accident report which you drew or which was drawn at your instance almost immediately after the occurrence, have you not?

A That is true. I know that the accident report—that this is not as strongly indicated there as it is over here.

Q Isn't it true that on the accident report, which was drawn almost immediately after the accident, you show the path of the Jaguar after the impact going straight down the street and then swerving toward the curb?

A Well, there is a swerve there, as you will see. There is almost—well, on this drawing there is almost four feet.

Q Four feet?

A Yes, sir.

Q You have him swerving about ten feet more on that drawing than you did right after the accident, don't you?

A No.

Q Look on your diagram.

MR. HUNT: This is a bigger drawing, isn't it?

A You will see that the automobile is much wider—this is not to scale, of course—is much wider in relation to the street than in my drawing.

Q Isn't it true that on your original drawing, which you made, not only did you not show him almost hitting or running over the curb, but your arrows proceeded along this way, in the center of the street. Isn't that true?

A It's true that the arrows are a little prominent on my drawing, a little - - or less prominent on my drawing than they are over here.

Q Well, why have you changed your estimation of where the car went, since the accident occurred?

A I didn't change my estimation. This, again, is a drawing that I put down on paper, and I believe that the car cut to the right.

Q On your original drawing you didn't show the car coming anywhere close to the right curb, did you?

A No, not in my original drawing.

Q Now, you say that this occurred on December 20, 1955 and that your memory is better today than it was shortly after the accident?

A No, my memory is not any better today. It couldn't possibly be.

Q Then that drawing that you have on that board is an error. Is that correct?

A I would say that it is a little more pronounced; the arrows are a little more pronounced to the right.

Q You didn't have him on the curb before, either, did you?

A I say if there is a curb there he would have gone right up - -

Q Well, of course - -

MR. HUNT: Let him finish his answer. Do you mind, Mr. Johnson?

Q Have you finished?

A No, I haven't.

If there is a curb there, the vehicle would have gone near the curb, or upon it. I don't know whether there is or not.

Q Why didn't you indicate that on the original drawing, Mr. Gschwind?

A I have no answer for that.

Q As a matter of fact, you were some two blocks behind the accident when it occurred, were you not?

A That's correct. As I stated before, the vehicles - - I just assumed that the vehicle cut into 62nd Street, going west.

Q In other words, you assumed at first, from your personal observation, that the vehicle had cut the opposite direction from what you later learned that it had cut. Is that correct?

A At first the vehicle cut to the right, then it cut sharply to the left, and I assumed that it was going to go west on 62nd Street.

Q As a matter of fact, did you ever see the motorcycle prior to the collision?

A I saw a flash of the motorcycle in about this area (indicating).

Q Is it true that what you actually saw was the sparks of the collision?

A I saw the sparks of the collision also.

Q Who was driving at that time?

A What vehicle are you talking about?

Q Your vehicle.

A I was.

Q Who was handling the red light and siren?

A Jack, in the position of putting them on. He had one hand—had his hand on them just prior to the impact.

Q Isn't it true that you looked at him just prior to the impact to see if his hand was on - -

A Just prior to the impact, but I definitely saw the impact.

Q I say isn't it true that you looked at him and were looking at him just prior to the impact?

A I looked at Jack's hands just prior to the impact.

Q Just down on the dash. Is that correct?

A It was right in front of the radio mike, you might say. It was on the dashboard where a regular Ford mike would be.

Q Now, this Jaguar that you were following - - would you say that it was cutting in and out of traffic different from what you would ordinarily drive in passing cars?

MR. HUNT: Your Honor please, that is going to lead into a repetition of testimony that has already been placed before

the Senate, and it is not in cross of anything that was brought out on direct, and we object to it.

CHIEF JUSTICE TERRELL: Objection sustained.

Mr. Gschwind, one of the members of the Court has sent up this question:

"How many feet did the car travel after the impact?"

THE WITNESS: I have that on this report, sir. We say the vehicle travelled over a hundred and fifty - - I can't read that last figure, but definitely over a hundred and fifty.

BY MR. JOHNSON:

Q Would it have travelled further if it had not struck the sand pile, and gone up against the building?

A I suppose it would have.

MR. JOHNSON: In order that I might understand the Court's ruling, I cannot ask him any questions concerning what he observed prior to the impact?

CHIEF JUSTICE TERRELL: Mr. Hunt's objection was sustained on the ground that the question was not in cross of anything on direct examination.

MR. JOHNSON: Let me proceed along another line.

BY MR. JOHNSON:

Q How long did you observe Judge Holt before the accident occurred, Mr. Gschwind?

A From the time we took up pursuit.

Q Where did you take up the pursuit?

A At 44th Street we observed the dark Jaguar. I would consider that the first contact with the Jaguar. That would be the first time we started in pursuit.

Q In what direction were you going at that time?

MR. HUNT: Your Honor please, counsel is persistently pursuing a course of examination which the Court has sustained an objection to as being not in cross of anything brought out in chief. This witness was called to testify about the cross-section occurrence.

MR. JOHNSON: If Your Honor please, I understood this witness, on direct, to testify what he observed some two blocks away, so I think, on cross, it is proper if the Court permits us to go a little more into detail as to what he actually observed during that occasion.

CHIEF JUSTICE TERRELL: The objection is overruled. Answer the question.

THE WITNESS: Would you repeat that question?

THE REPORTER: Let me find it. "At 44th Street we observed the dark Jaguar. I would consider that the first contact with the Jaguar. That would be the first time we started in pursuit."

BY MR. JOHNSON:

Q The question I was leading up to was, what direction were you traveling when you first saw the Jaguar?

A We were traveling south.

Q In other words, you turned around after you observed the conduct of the driver of the Jaguar?

A That is correct.

Q You then proceeded to chase him after that?

A That's correct.

Q Is it also true that he had to pass a number of cars prior to reaching the intersection where the wreck occurred?

A That is correct.

Q Is it also true that he did not pass those cars in a normal manner, but, rather, cut in and out sharply?

A That is correct.

Q Would it also be a fair statement to make that this cutting in and out was much in the fashion of a hot-rod?

A I wouldn't say that.

Q Did you observe any brake lights appear prior to Judge Holt's Jaguar running the red light?

A No. I have that on my report.

Q Sir?

A I have that on my report. We did not notice any brake lights on this vehicle.

Q Did you observe any skid marks laid down by the Jaguar prior to the collision?

A No, we did not.

Q Did you observe any skid marks laid down by the motorcycle?

A No, I did not.

Q Did you look for them?

A Yes, we did.

MR. JOHNSON: That is all.

RE-DIRECT EXAMINATION

BY MR. HUNT:

Q Mr. Gschwind, will you state whether or not, in the course of pursuing the speeding Jaguar—I believe you said it was passing other traffic. Is that correct?

A That is correct.

Q In your opinion as a Police Officer, engaged at times in the pursuit of speeding vehicles, was that car driven with a steady hand or not?

MR. JOHNSON: We object to that, if the Court please.

MR. HUNT: You brought it out.

MR. JOHNSON: As calling for a conclusion, as not being in re-direct, and as being improper testimony.

MR. HUNT: Your Honor, he got in his conclusion about the hot-rodder, and everything he could think of.

CHIEF JUSTICE TERRELL: Objection sustained.

BY MR. HUNT:

Q Will you state whether or not the Jaguar was driven with precision or otherwise?

MR. JOHNSON: Your Honor please, we object to the leading questions. The question also calls for a conclusion and a summing up of testimony of a Police Officer, and I think it is improper re-direct examination.

CHIEF JUSTICE TERRELL: Objection sustained.

MR. HUNT: The Court won't permit this witness to give his opinion as to whether or not the Jaguar—

CHIEF JUSTICE TERRELL: I'm talking about your objection.

MR. HUNT: Oh, I beg your pardon, sir. I thought you had overruled me.

CHIEF JUSTICE TERRELL: Answer Mr. Hunt's question.

A As I said before, the car was driven with precision.

BY MR. HUNT:

Q It was driven with precision?

A Yes sir.

Q Will you turn around, Mr. Gschwind, and state to the Senate as best you recall the physical evidence of impact as you found it, both from examination of the motorcycle and the Jaguar.

A You mean in relation to damage, sir?

Q Yes.

A Well, the damage was greatest on the left door of the Jaguar and the impact was, basically, on the forward part of the motorcycle.

Q Now, the left door of the Jaguar—where would that be in relation to where the driver of the Jaguar would be seated?

A In this particular Jaguar automobile the left door is toward—back of the center line of the vehicle.

Q With relation to the length of the Jaguar, where was the point of impact?

A Well, I would say it would be somewhere between the left fender and the door. I definitely couldn't say where, but it was definitely somewhere on the left side area. It probably was more on the door.

Q Well, is the door approximately midway of the length of the car, or not?

A It is further back than midway.

Q Further back than midway?

A Yes.

Q Further towards the rear?

A Yes sir.

MR. HUNT: No further questions.

RE-CROSS EXAMINATION

BY MR. JOHNSON:

Q Mr. Gschwind, referring to the diagram out there again, I see you show the point of the motorcycle as striking about halfway down the left side of the Jaguar. Is that correct?

A I don't understand what you mean.

Q Let me just sum it up this way. I have the original accident report that you made shortly after the accident, before me. Will you refer to your copy, in your hand? Isn't it true that on the original accident report, which was made shortly after the accident, you showed the point of the motorcycle as touching the point of the Jaguar—the front point. Will you look at the original report?

A I am looking at my original report, yes. Yes, it is further up in this area—the point of the motorcycle.

Q Why did you change the drawing of the point of impact?

A I drew this in the other room. I just drew it to the best of my ability, that's all.

Q You have investigated a number of accidents, have you not?

A That is correct.

Q Haven't you also observed the situations where a heavy vehicle struck a lighter vehicle, such as a motorcycle, causing the motorcycle to skew around, striking the side of the heavier vehicle?

A Yes sir.

Q It is possible that that happened here, isn't it?

A Oh, yes, it might be possible, but I didn't recall any damage on the side of his motorcycle. I don't remember any damage on the side of it.

Q You have no independent recollection—

A No, I don't have any recollection of any motorcycle damage on the side.

Q But it is entirely possible that the motorcycle swung around and struck the side of the Jaguar, is it not?

A Yes, it is entirely possible.

Q Isn't that the way you drew it originally, on your original diagram?

A I just drew the positions that they would be in just prior to the point of impact. I also drew the vehicles differently on my drawing to what I have on here, because I wished to make it clear to the members of the Senate, to understand that this was not an automobile.

MR. JOHNSON: That is all.

RE-DIRECT EXAMINATION

BY MR. HUNT:

Q Mr. Gschwind, would you take the chalk and, if you have not already done it, locate the position where the two motorcyclists were found lying in the street?

A I have drawn them, over here.

Q Turn around, please.

A Right over here somewhere.

Q Will you stand back a little bit?

A Yes sir. This, over here, is Feitelson and this was the girl passenger on the motorcycle.

Q Both motorcyclists, then, were found lying on the street?

A That is correct.

Q You might say east of Northwest 2nd Avenue. Is that correct?

A That is correct.

MR. HUNT: No further questions.

RE-CROSS EXAMINATION

BY MR. JOHNSON:

Q Mr. Gschwind, do I observe your drawing right, in which it depicts the bodies as lying in front of and to the right of where the point of impact occurred?

A The two persons that were riding on the motorcycle were in this position. Feitelson's head was this way and the girl was facing this way.

Q Is that in front of or to the right of where the impact occurred?

A That is to the front and to the right.

BY MR. HUNT:

Q And it was also to the right of the Jaguar. Is that correct?

A That is correct.

MR. JOHNSON: That is all.

MR. HUNT: That is all. Thank you.

CHIEF JUSTICE TERRELL: Mr. Gschwind, Senator Davis offers this question:

"How far was it from the point of impact to where the motorcycle came to rest?"

THE WITNESS: Seventy-five feet.

BY MR. HUNT:

Q Have you shown there where the motorcycle came to rest?

A Yes. In this position up here.

CHIEF JUSTICE TERRELL: Mr. Gschwind, Senator Johns, a member of the Court, offers this question:

"About how many feet were they lying from the point of impact - - that is, the two bodies?"

THE WITNESS: Well, I really couldn't - - this street is thirty feet wide and this one is thirty feet wide, so I would say about twenty feet, possibly a little more - - each individual.

CHIEF JUSTICE TERRELL: Would that indicate that the

motorcycle was moving at a higher rate of speed - - the distance the bodies were thrown?

THE WITNESS: Well, it was going faster than five miles an hour.

CHIEF JUSTICE TERRELL: Senator Getzen offers this question:

"If Judge Holt's car was not at fault, why did the insurance company pay \$39,000 to the owner of the motorcycle and when did the insurance company begin to give away money in such a manner? Surely the attorney for the insurance company saw the Police Report before paying out \$39,000."

THE WITNESS: May I ask a question, sir? I don't know what the insurance companies - -

CHIEF JUSTICE TERRELL: Well, suppose you take those questions separately. First, if Judge Holt's car was not at fault why did the insurance company pay \$39,000 to the owner of the motorcycle?

THE WITNESS: Well - -

SENATOR RAWLS: May it please the Court, I object to those questions being put to this witness. This witness isn't qualified to answer those questions.

CHIEF JUSTICE TERRELL: Any member of the Court can ask any question, in reason, that he wants to.

SENATOR RAWLS: Well, I would like for the Court to vote on my objection, Your Honor. This witness is not qualified to testify what insurance companies are doing, and I appeal my objection to the Court. I ask that the Court vote on whether the witness is going to answer that type of question.

CHIEF JUSTICE TERRELL: You have a perfect right to do that.

Senator Rawls objects to Senator Getzen's question.

SENATOR GETZEN: Your Honor, this witness may not be in a position to answer that question, but I hope, with some other witness, this evidence may be given. I withdraw that question from this witness at this time.

CHIEF JUSTICE TERRELL: The question is withdrawn, then?

SENATOR GETZEN: Yes, sir.

CHIEF JUSTICE TERRELL: Then I will not put the vote.

Mr. Officer, Senator Connor sends up this question:

"Is there any doubt in your mind as to who was at fault in the accident?"

THE WITNESS: No, No, Your Honor.

CHIEF JUSTICE TERRELL: The second question:

"If there was nothing wrong in the operation of the Jaguar, why were you trying to overtake it?"

THE WITNESS: I never said there was nothing wrong in the operation of the Jaguar. The Jaguar was exceeding the speed limit. That's why we were trying to overtake it.

CHIEF JUSTICE TERRELL: The next question:

"Did the motorcycle have a green light, and a right to be in the middle of the intersection, even if Judge Holt's car was on the right side of the center line?"

THE WITNESS: The motorcycle had a green light.

CHIEF JUSTICE TERRELL: I think I have propounded all the questions. If I have overlooked any, call it to my attention.

SENATOR JOHNS: I've got another question, Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Here is another question by Senator Johns:

"Is it not true that an insurance company does not have a chance before a jury in Dade County, and if they had not settled this case out of Court and it had gone to a jury - -

SENATOR GETZEN: Mr. Chief Justice, I don't know how this witness could answer that, any more than he could the other. I think it is improper.

SENATOR STRATTON: I think the Respondent has finished his examination of this witness and I think the witness has told us that Judge Holt's car was at fault by running a red light, and I think we're just wasting time.

SENATOR BELSER: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Belser.

SENATOR BELSER: I think the Senator is merely assuming that is what this witness has testified, and I want to state here, as a member of this Court and as an attorney at law, that I can gather - - and that is what I'm going to do here - - and place my own interpretation on the evidence and the law, as presented from this witness stand. Now, that may be the assumption of the Senator, but that is not the interpretation that I place upon the testimony and the law in this case, so it would be proper, in my opinion, if the Senator would state that that would be the interpretation that he has placed on this evidence.

SENATOR STRATTON: Well, I've never taken law, and I'm not going to take it from you, because I know that's impossible.

SENATOR BELSER: Well, why don't you address your questions with the pronoun "I" instead of "we, the Court"?

CHIEF JUSTICE TERRELL: Senator Johns, do you want your question asked? Do you want it answered?

SENATOR JOHNS: I will withdraw it. I just wanted to get it before the Court, because I know from being an officer of an insurance company what Dade County juries will do against an insurance company, and if they had gone to Court they would have had to pay three or four times as much. I withdraw my question, Your Honor.

CHIEF JUSTICE TERRELL: The last question:

"In your opinion, who was at fault" - - by Senator Edwards.

THE WITNESS: In relation to the accident, I swore out a warrant against the driver of the Jaguar for running a red light, resulting in an accident.

CHIEF JUSTICE TERRELL: That is all the questions.

MR. JOHNSON: We have no further questions.

MR. HUNT: One more question.

BY MR. HUNT:

Q Did you, in your report, estimate the speed of the motorcycle at the time of the impact?

A Yes, I did.

Q At what rate of speed did you estimate the motorcycle to be traveling?

A I estimated its speed at between twenty and thirty miles an hour at the moment of the accident.

MR. HUNT: That is all.

MR. JOHNSON: I have one question that I would like to address to counsel. Do you intend to offer that diagram in evidence at this time? Do you mind answering the question?

MR. HUNT: I will answer it this way. This was brought here for the purpose of demonstrative evidence, for the convenience of the Court, and I do not consider it necessary to offer it in evidence.

MR. JOHNSON: As I understand, if the Court please, the law generally says that if you're going to refer to and testify to an object it should be in evidence. If counsel do not desire to offer it in evidence, we desire to have it marked for identification until such time as we can offer it in evidence.

MR. HUNT: We have no objection.

MR. JOHNSON: That is all.

SENATOR DAVIS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Davis.

SENATOR DAVIS: I move that the Senate stand adjourned for ten minutes.

CHIEF JUSTICE TERRELL: Without objection, the Senate is adjourned for ten minutes.

Whereupon, beginning at 10:46 o'clock a.m., the Senate stood in recess for about ten minutes.

CHIEF JUSTICE TERRELL: Order in Court.

The Chair declares a quorum present.

MR. HUNT: Call Officer Headley, please.

Thereupon,

JACK T. HEADLEY,

a witness called and duly sworn in behalf of the Respondent, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HUNT:

Q Will you please state your name?

A Jack T. Headley, Policeman, City of Miami.

Q What is your occupation, Mr. Headley?

A I am a Policeman of the City of Miami, assigned to the Accident Investigation Bureau.

Q How long have you been a Policeman in the City of Miami, Mr. Headley?

A Three years.

Q Do you have any other pursuit or occupation, other than that which you have mentioned?

A I am a student at the University of Miami.

Q But your only occupation for gain is that of a Police Officer of the City of Miami. Is that right?

A Yes sir.

Q Mr. Headley, were you on duty with Officer Gschwind, who just testified, in Miami on the night of December 20, 1955?

A I was.

Q Were you riding with Officer Gschwind on that evening, in a Squad Car?

A I was.

Q Will you state who was driving?

A Officer Gschwind was driving. I was the observer.

Q Did you collaborate with Officer Gschwind in the making out of your official report of the accident which was turned in to the Miami Police Department?

A That is correct.

Q Will you state to the Senate whether or not you had had occasion to see the Jaguar automobile, driven by Judge Holt, during that evening?

A Yes sir, we did. We observed the driving and the accident.

Q Now, where was your car and in what direction was it proceeding when you first saw the Jaguar?

A We were proceeding south on Northwest 2nd Avenue. The Jaguar was proceeding north on Northwest 2nd Avenue. It was approximately at Northwest 44th Street, and we turned our vehicle and pursued Judge Holt's vehicle.

Q What caused you to turn and pursue the Jaguar?

A At the time I was adjusting the radio, listening for another call, and Gschwind observed the Judge cutting in and out of traffic and blowing his horn.

Q Did you hear the horn blowing as he passed you?

A No, I didn't hear the horn blowing.

Q About where did you turn your car around to head northward behind the Jaguar?

A I believe it was in the neighborhood of 44th or 43rd Street.

Q How far did you pursue the Jaguar?

A We pursued him to the scene of the accident at Northwest 62nd Street.

Q Did you observe the collision which occurred at Northwest 2nd Avenue and 62nd Street?

A I did.

Q Have you examined the drawing placed on the blackboard before you, before it was brought to the Senate Room?

A Yes sir, I have. I was in the other room with Gschwind when he drew it.

Q Does that substantially reflect the drawing portion of your official Police report, as it is contained upon the report before the Senate?

A Yes sir, they're substantially the same. Neither drawing is drawn to scale. As you know, it is just our conception of the accident.

Q Did your report indicate the position of the two riders of the motorcycle?

A Yes sir.

Q Is the position shown on the drawing before you substantially in accordance with the drawing embraced in your official report, both as to the location of the Jaguar, the location of the two bodies and the location of the motorcycle, after the impact?

A Yes sir.

Q Will you state what color the signal light was at the time of impact?

A The light was red for north and south bound traffic.

Q That would be 2nd Avenue?

A Yes sir.

Q At the time of the impact had it been red for some time or had it just changed to red, or what was that time situation?

A It had been red for a considerable length of time. The light changed to green or to caution - - correction - - turned to green - - as we were entering the intersection ourselves, which was a matter of a second or two after the accident.

Q What phase light is that, if you know?

A It's a three-second caution and a thirty-second green and red phase.

Q Now, during the pursuit had your car shown its top-side red light or sounded its siren?

A No.

Q At the time of the impact was either the siren or the red light on?

A No. Our particular car had a switch on the dashboard. Gschwind was driving and I had my hand on the switch, and when he called my attention to the accident I immediately looked up and witnessed the accident. We were closing into the intersection and I turned the switch on just after the accident and the red light was on then.

Q Could you observe what happened to the Jaguar immediately following the impact with the motorcycle?

A The Jaguar swerved to the right, and back to the left, and disappeared from our view momentarily, and as we entered the intersection we observed the Jaguar between the two buildings on the northwest corner.

Q Will you examine that blackboard drawing and state whether or not the path of the Jaguar after impact is substantially as you reported it in your official report?

A Yes sir, that is substantially the same.

Q Is there a curb, a raised curb on northwest 2nd Avenue, on the east side, or not, at that point?

A On Northwest 2nd Avenue at this point the roadway portion, the concrete roadway, is thirty feet wide, and east of the roadway there is an area of asphalt for pulling off the curb on the parking lane, and then there is a raised curb.

Q Now, prior to the impact during the course of your chase, had you been in a straightaway or had you been required to dodge in and out of traffic?

A For the first several blocks we were held back by traffic. The last, oh, six blocks or so I would say were straightaway - - four or five, maybe.

Q Did you have the Jaguar constantly in view during that last four or five or six blocks?

A Yes sir.

Q On which side of the street was the Jaguar being driven immediately prior to impact?

A The right-hand side.

Q Will you state whether or not it was being driven from side to side or in a straight and precise manner during that last five or six blocks, where there was no traffic?

A It was a straight, very precise manner.

Q I will ask you to state to the Senate whether or not you examined the damage both to the Jaguar and to the motorcycle there on the scene?

A Yes sir, I did.

Q Where on the motorcycle was the damage?

A The damage from the impact was to the front of the motorcycle. There was miscellaneous damage from it falling on the roadway, but the main point of impact was right on the front.

Q On the front of the motorcycle?

A Yes sir.

Q State to the Senate where upon the left side of the Jaguar you found the maximum damage and point of impact?

A The point of impact on the Jaguar was right in front of the side door, nearly directly below the windshield - - possibly a little bit forward.

Q Now, considering the length of the Jaguar, would that have placed the point of impact forward of center, center, or rear of center?

A Well, more nearly the center, I would say.

Q Pardon?

A Center.

Q At the center?

A Approximately at the center, yes sir.

Q Will you state to the Senate whether or not the Jaguar is a high or a low-seated automobile?

A It is a sports car, a very low car, low-seated.

Q How low would you say the top of the front door is on the Jaguar?

A Oh, approximately four feet, I believe, or four and a half.

Q Now, how high would two motorcyclists be, on the motorcycle, with relation to where the driver of the Jaguar, seated, would have been at the time of impact?

A Well, you take two men of approximately the same height, on a standard motorcycle, which this was - - he would be about a foot higher than the man in the car.

Q The motorcyclist would be higher than the man seated in the Jaguar?

A Yes sir.

Q Did you, in your report, estimate the speed of the motorcycle at the point of impact?

A We estimated it through the damage at somewhere between twenty and thirty miles an hour.

Q I will ask you to state whether or not the position in which you located the two motorcyclists lying on the street was eastward of the Jaguar?

A Yes sir, it was east and slightly to the north.

Q Have you ridden a motorcycle, Mr. Headley?

A A very few times.

Q And you say the bodies were eastward and slightly to the north of the Jaguar?

A Yes sir. When a car traveling at a rate of speed such as that motorcycle was, when the accident occurs the motorcycle stops but the bodies will continue at their original speed until they strike an object, which in this instance was the street.

Q There is some evidence before the Senate that at the place of impact the Jaguar had swerved to the west side of Northwest 2nd Avenue. Is that true or untrue?

A No sir, it's completely impossible. I say that not only through my observation, but also there were certain markings in the street indicating the point of impact.

Q And from your observation at the time of impact, did you or not continue to observe the Jaguar on the proper or east side of Northwest 2nd Avenue?

A You mean after the impact?

Q No, up to the time of impact?

A Yes sir, up to the time of impact it was in its proper lane of traffic in that direction.

Q Now, as you reported to your superiors, did you or not locate the point of impact as being east of the center line of Northwest 2nd Avenue?

A Yes sir, it was.

Q Following the impact, I believe you stated that you observed the Jaguar to take a swerve to the right and then sharply cut in to the left, to the place where you found it upon arrival?

A Yes sir, that is correct.

Q And does that drawing substantially, and with substantial accuracy, locate the position of the motorcycle following the impact?

A Yes sir, it does.

Q Will you state to the Senate what you did immediately upon arrival at the scene?

A Well, as we entered the intersection and stopped our vehicle I was seated on the right side. I went over to assist the two people lying in the roadway and Gschwind went over to the Jaguar and - - correction: Gschwind called for necessary assistance and then he went over to the Jaguar. Then St. John arrived, and several other people, and I went over by the Jaguar and we gave what first aid we could and started our accident report.

Q What did you find when you arrived at the Jaguar, Mr. Headley?

A I found an unconscious white male. He was slumped to the right of the steering wheel, his face pointing downwards. I didn't observe the dog at that time. He was under the seat or on the floor or somewhere.

Q What did you do then?

A The man was bleeding about the face and through the nose, and I thought it wise not to try to move him, for fear

that I would hurt him worse than he already was, so we just left him there until the Rescue Squad and the ambulance had arrived, and then we removed him and sent him to the hospital.

Q Can you state approximately how close you got to the front seat of the Jaguar and to the unconscious driver of the Jaguar on that occasion?

A I imagine about three feet.

Q Did you see, smell, or otherwise detect the presence of any alcoholic odor or beverage on that occasion or at that time?

A No sir, I did not.

Q Now, following the removal of the injured persons to the hospital what did you do?

A After they had been removed we completed our on-the-scene report, with the assistance of Detective Berquist, and then we stopped by the Precinct Station and left the dog, and proceeded on to the hospital.

Q And what did you do upon arrival at the hospital? Just state what occurred, in the sequence in which you recall it. If you wish to refer to your own notes you may do so.

A As I recall, Judge Holt was in the X-ray room and the other two parties were being worked on in the Emergency Room, and we completed our report, is about all we did. I took the money from the Judge - - I took possession of Judge Holt's belongings and made an inventory of everything and later turned it in to the Property Bureau.

Q When you took possession of Judge Holt's valuables was that before he had been taken into the X-ray room?

A No, that was after.

Q And what did you do with these valuables, including the money?

A I itemized a list of it and put it in an envelope and turned it in to our Police Property room.

Q Where would that have been? Down at the Police Station?

A Yes sir.

Q Now, the Jackson Memorial Hospital, I believe, is operated by Dade County?

A Yes sir, it is a County Hospital.

Q Was there a County Police Officer on duty at the Emergency Room that night?

A Yes sir. Usually there are several, three or four, every night.

Q Do you recall any County Police Officer who was present that night in the Emergency Room?

A Officer Shultz was one of the attending policemen.

Q Did he participate, in your presence, in any of the proceedings?

A Yes sir. He counted the money and turned it over to me, and then I counted the money, and I believe that he was one of my witnesses that I had on the actual denominations of the currency.

Q Did you see him count the money?

A Yes sir.

Q I will ask you to state to the Senate in what denominations the money was?

A There were nine one-hundred-dollar bills and \$52 also. I believe the \$52 were two twenties and a ten and two ones. I'm not too sure of that.

Q Now, as regards the currency which you have testified about, was that found in a loose, wadded-up state, or otherwise?

A No, the money was neatly folded in a billfold. The

hundred-dollar bills—well, they looked like hundred-dollar bills should look like. They were smooth.

Q Did you find any crumpled-up or wadded-up loose currency in Judge Holt's pocket?

A No sir. The only currency was in the billfold.

Q Mr. Headley, were you later called before a Dade County Grand Jury in connection with the investigation of this matter?

A Yes sir, I was.

Q Was that before or after City Court disposition of the charges against the Respondent?

A That was after.

Q Was it a considerable period after or only a few days?

A It was considerably longer than a few days. I don't remember the exact date.

Q Did you, as a result of a request made upon you, have occasion later to look up Mr. Shannon, who has testified as a witness here, and discuss the happenings of the night of December 20th with him?

A Yes sir, I did.

Q Do you recall about when it was that you saw Mr. Shannon and where you found him?

A It was several days after I had been called in front of the Grand Jury. I went to Northwest 7th Avenue and 36th Street and inquired at a filling station where I heard he worked, and the boy at the station told me that he was employed by Crane Brothers Wrecker Service, on Northwest 7th Avenue and 71st Street. I proceeded there and couldn't locate the man. His employer told me to come back the next day and he would have him there, which he did.

Q Now, did you talk to Mr. Shannon at that time?

A Yes sir, I did.

Q Will you state to the Senate the conversation you had with Mr. Shannon relating to the night of December 20, 1955?

A Well, I asked him about what had occurred, if anything, and he related to me that Judge Holt had pulled into his station in the Jaguar, with a poodle dog, and I inquired about the Judge's condition as to sobriety, and he stated to me at that time, he says, "If there's one thing I hate, it's a drunk." and I said, "Well, was the Judge drunk?" and he evaded that question. I asked him if he smelled any alcoholic beverage on the Judge's breath and he told me it was a windy night and he didn't smell anything.

Q He said he did not smell anything?

A Yes, he said he did not smell anything.

Q Go ahead.

A I asked him to qualify his statement about his opinion as to the Judge's sobriety, what he based it on, and he said the Judge was jovial.

Q That he was jovial?

A Yes sir; and I asked him if he saw him walk or was his speech slurred in any way to indicate that of an inebriated person, and he said no, it wasn't. His whole testimony, to me, was that of a person that doesn't know very much about the whole situation. He didn't give me anything that would help me very much. Every direct question I would ask him, well, he didn't know, or it wasn't this or it wasn't that. He just kept coming back to the fact that he hated drunks, and, after talking with him a considerable length of time, I turned to leave. I thanked him for his assistance, and he stated to me, he says, "Well—" just before that he told me, he says, "If this had been me they would have hung me, but, being he is a big wheel, he'll get away with it." Then as I was turning to leave and thanked him, he said, "There's one thing I hope." He said, "I hope they hang his ass," and I left.

Q Did you, at the beginning of your conversation with Mr. Shannon, identify yourself to him?

A Yes sir. I was in uniform, Police uniform, in a marked Accident Prevention car, and I told him my name.

Q Were you ever called or contacted again to reappear before the Grand Jury to give them the results of that conversation?

A No sir, I wasn't. I didn't think too much of it. His testimony actually meant nothing of any consequence. He was undoubtedly a biased person, and very prejudiced, and he had nothing to offer, so I assumed the Grand Jury had found out through other sources as to the man's testimony and just discounted the testimony.

Q Did you have occasion to talk to Mr. McGonigal, or was he there at the time?

A Mr. McGonigal was there, but he didn't say too much. When I talked to Mr. Shannon he just nodded his head and said, "Yes, yes." I believe I asked him did he see or was he anywhere near the car, and he said no, he stood in the back-ground.

MR. HUNT: Take the witness.

CROSS EXAMINATION

BY MR. HOPKINS:

Q Mr. Headley, you're the son of the Chief of Police?

A Yes sir.

Q You are the son of the Chief of Police of the City of Miami?

A Yes sir, I am.

Q You have no prejudice in this matter?

A None whatsoever.

Q Did you put everything on your report that you found out in the investigation of this case?

A Yes sir, as far as the investigation was concerned the report was very full.

Q Did you talk to someone after the accident who told you that he had seen Judge Holt drunk immediately prior to the accident?

A During the time of the investigation no one told me that Judge Holt was drunk.

Q Did anyone tell you at any time that Judge Holt was drunk immediately prior to the accident?

A I've heard that story, the same as most everyone else has throughout the course of time, but during my investigation, up to the Court trial, no one ever stated that to me.

Q Are you evading the question?

A No sir, I'm not evading the question. You're talking about my accident investigation and I am telling you just what I know. Everyone that read the newspapers heard those statements, and I heard a million of them.

Q Did anyone tell you that Judge Holt was drunk immediately prior to the accident?

MR. HUNT: I think counsel ought to state whether it was prior to the City Court trial or after.

MR. HOPKINS: The question is at any time.

Q Has anybody told you they saw Judge Holt drunk immediately prior to the accident?

MR. HUNT: Your Honor please, I object to it unless it is shown that it was during the course of the investigation or within the official pursuit of this witness' duty.

CHIEF JUSTICE TERRELL: Objection overruled.

Q Will you go ahead?

A Yes sir. I have had it stated to me.

Q Who was that person that told you that?

A After the Court trial had been completed I received a phone call or, rather, received a number to call when I came to work one day. I called this number and talked to this fellow and he told me that he was very - -

MR. HUNT: Now, just a minute. Your Honor please, I object to anything anyone told this witness over the telephone, not in the presence of the defendant.

MR. HOPKINS: If the Court please, he covered all the testimony that's in the report. We would like to know what was reported to him that is not shown in the Police Report.

MR. HUNT: Your Honor please, the witness has stated that this was after the report was filed and after the case had been tried that he received a telephone call.

CHIEF JUSTICE TERRELL: Objection sustained.

BY MR. HOPKINS:

Q How much time elapsed between the time of the accident and the case that you referred to in City Court?

A This case came up in the early part of February. I don't recall the exact date. The accident occurred in December, December 20th, I believe.

Q Do you remember giving testimony in Miami before the House Managers?

A Yes sir, and I could very easily explain that.

Q Well, explain this answer - -

MR. HUNT: Your Honor please, I object to any testimony given before the House Managers in Miami.

CHIEF JUSTICE TERRELL: The objection is overruled.

MR. HUNT: May I state the reason for the objection?

CHIEF JUSTICE TERRELL: Yes.

MR. HUNT: The House Managers had no lawful right or authority to be in Miami, placing witnesses under oath. They had not that lawful power or authority from the Legislature. They are only authorized to come over here and prosecute the case. They had no investigative authority, and I think it is improper to examine any witness on any statement made before the House Managers in Miami, not in the presence of Judge Holt, not under lawful process and not in the presence of Judge Holt's counsel.

CHIEF JUSTICE TERRELL: Are you testifying as to what took place before the House Committee in Miami or Tallahassee?

THE WITNESS: This was in Miami.

MR. HUNT: The House Committee took place here, Judge. It was the House Managers and their attorneys that came to Miami, and that is what he is undertaking to question him about - - an informal sort of kangaroo getting-together of witnesses and questioning them, quizzing them in a hotel room, and I object to it.

MR. HOPKINS: If the Court please, it's not a question of the authority of the House Managers to question. It is an inconsistent statement made at another time. The inquiry is if he made an inconsistent statement at that time.

MR. HUNT: That is exactly what we are objecting to, Your Honor.

CHIEF JUSTICE TERRELL: Objection sustained.

BY MR. HOPKINS:

Q Do I understand you to say that no one told you that prior to the time of the trial in February?

A Yes sir. What you are referring to occurred after the trial, approximately two or three days after the trial - - within a week after the trial.

Q Was the statement made by you in Miami made under oath?

A Yes sir and, as you recall, when you people called me

in I hadn't slept in about thirty hours and I was a little tired and a little confused there, and I hadn't even considered this particular instance since the time of this occurrence; and if you will further recall I didn't give you an exact time. I told you it occurred after the accident and I didn't remember exactly when.

Q Did you say, "As I was telling Mr. Musselman, about two days later, after the accident, I came to work and was given a phone number - -"

MR. HUNT: Now, Your Honor please, counsel is trying by a left-handed, back door approach to get into evidence what the Court has already ruled out.

MR. HOPKINS: We think it is proper impeachment, Your Honor.

CHIEF JUSTICE TERRELL: Were you under oath when you made this testimony?

THE WITNESS: Yes sir, it was administered to me.

CHIEF JUSTICE TERRELL: Answer the question.

BY MR. HOPKINS:

Q Did you make that statement in Miami, under oath?

A If you recall, the statement was made that I had received a phone call and you asked me when and I said after the accident shortly, two or three days after the accident; and, to go back a little bit, in the month of December, 1955 - -

Q Answer my question, please.

A I am answering the question to the best of my ability.

MR. HUNT: I want the witness to be allowed to answer the question, Your Honor please.

CHIEF JUSTICE TERRELL: If counsel will quit badgering each other and let the witness answer, I think we can get along faster and have more intelligent answers, too.

MR. HOPKINS: May I ask the question again, Your Honor?

CHIEF JUSTICE TERRELL: Yes.

BY MR. HOPKINS:

Q Did you make the statement that two days after the accident you got this phone call?

A Yes sir, I said several days after the accident I received the phone call.

Q All right. What was the date of the accident?

A The accident was the 20th of December.

Q What was the date of the trial?

A The trial was February 10th.

Q Now, going back, did you have information from someone to the effect that they had seen Judge Holt drunk immediately prior to the wreck, at the time of the trial?

A No, I did not. I told you that I had made a mistake and that I realized it later. If you want me to, I'll explain it.

Q Do you mean that you now say that you didn't have that information when you gave it to us in Miami?

A I had this information, but I received it at a different time than when I told you I received it. The incident was very insignificant in my mind. When Mr. Musselman asked me when it occurred I said it was after the accident but I didn't recall when.

Q Well, suppose you give us the name of that man now?

A I have no knowledge of this man's name. The man was obviously a crank and the trial was over at the time. The man had been tried and convicted, and I had no interest whatsoever in the case.

Q All right. What did the man tell you?

MR. HUNT: Now, there we go again, Your Honor - - an unknown person, a telephone conversation.

MR. HOPKINS: May I be heard, Judge?

CHIEF JUSTICE TERRELL: Yes, you may be.

MR. HOPKINS: If the Court please, in this instance he has testified that in his opinion the man was a crank. I think we're entitled to go into what the man said, to know what the man said.

MR. HUNT: Your Honor please, it is hearsay and it would be prejudicial to the defendant and it is not proper evidence.

CHIEF JUSTICE TERRELL: Answer the question.

A The man told me that he was a very good friend of Judge Holt's. He said this was a horrible thing, and he said, "Why couldn't you say that he was drunk when the accident occurred?" I said, "We had no evidence to substantiate such a charge."

MR. HUNT: Your Honor please, I would like to be heard before this witness proceeds any further.

CHIEF JUSTICE TERRELL: I think that conversation is improper.

MR. HUNT: I move to strike the witness' answer up to this point.

CHIEF JUSTICE TERRELL: The motion is granted.

MR. HOPKINS: May I ask one further question?

BY MR. HOPKINS:

Q Did this man tell you - -

MR. HUNT: I object to any further interrogation along this line.

MR. HOPKINS: I haven't finished my question yet.

CHIEF JUSTICE TERRELL: State your question.

Q Did this man tell you that he saw Judge Holt immediately prior to the accident and that he was drunk at a party?

MR. HUNT: I object to the question.

CHIEF JUSTICE TERRELL: Objection sustained.

Q Did this man give you his name?

MR. HUNT: Your Honor please, the witness has already testified that he did not give him his name.

CHIEF JUSTICE TERRELL: Do you know the man's name?

THE WITNESS: The man, when I called this number, I told him this was Officer Headley and that I had received a message to call this number. He said, "This is so-and-so." He spelled it out, but I didn't catch it, and after the conversation was over there was no reason for me to ask him what his name was.

CHIEF JUSTICE TERRELL: You don't know who the witness was?

THE WITNESS: No sir, I don't have any idea.

CHIEF JUSTICE TERRELL: The objection is sustained.

BY MR. HOPKINS:

Q Was this an anonymous call?

A When I came to work that day, that afternoon, there was a message for me to call a certain number, on the Sergeant's bulletin board. He handed me the message, and when I had the opportunity, which was shortly thereafter, I called the number.

Q Did you ask the man his name?

A No sir. I said, "This is Officer Headley. I received a message to call this number." He said, "Well, this is So-and-so."

Q Will you tell me how you called him back without knowing the phone number or the name to call for?

MR. HUNT: The witness just stated that he had the phone number.

THE WITNESS: I had the phone number.

Q Would you answer the question?

CHIEF JUSTICE TERRELL: Answer the question.

A I previously stated that I had the phone number.

Q Didn't you previously state that you also had the name to call back?

A I don't recall having his name.

CHIEF JUSTICE TERRELL: I think he said he gave him his name.

THE WITNESS: He gave me his name.

CHIEF JUSTICE TERRELL: But he doesn't know what it was.

THE WITNESS: This was a very insignificant detail and it occurred a long time ago and it was meaningless at the time.

BY MR. HOPKINS:

Q And you did not report that name any place, put it on any report?

A No sir. The case was closed as far as the City was concerned. We had tried and convicted the man. We don't try them twice, or anything.

Q But you do admit that you swore under oath in Miami that it happened two days after the accident. Is that correct?

A I admit I don't recall about the time. It came up in a matter of fact way, and I merely said it happened after the accident, and I later recalled, through circumstances, just how it - - I remember calling the man. At the time I called him it was on the afternoon shift, and I didn't go on the afternoon shift until February. I worked midnights December and January, and I remember calling him when I came to work on the afternoon shift. Then I realized it was shortly after the accident.

BY MR. HUNT:

Q You mean after the trial?

A Correction: After the trial, yes.

BY MR. HOPKINS:

Q Now, would you answer this yes or no for me, and then you can explain. Did you tell us, under oath, in Miami, that you got this call two days after the accident?

A If you recall, I was - -

Q Answer it yes or no, and then explain if you want to.

A All right. I'll answer it yes. I did say I received a call after the accident; and, in explanation, if you recall, I was working the midnight shift. The next morning I had to attend the University, which I did, then I went straight over to your hearing. At the hearing I waited around while newspaper men took pictures and did the necessary things, I guess. Then I was called down. I was very tired, and this incident I had completely forgotten about. When it came up I wasn't too sure, so the only thing I knew was that it happened after the accident, and it was later that I realized that when I called this man I was working afternoon shift, and I didn't go on the afternoon shift until February, and then I realized that it was after the Court trial.

Q Mr. Headley, will you answer the question for me?

A I answered the question for you. I said - -

MR. HUNT: He answered the question, if the Court please.

MR. HOPKINS: If the Court please, he can answer it yes or no.

MR. HUNT: He answered it yes, in the explanation that the witness gave you, if the Court please.

MR. HOPKINS: I want him to let the witness answer the question.

MR. HUNT: Your Honor please, I think counsel ought to quit asking the same question.

CHIEF JUSTICE TERRELL: I think the question has been answered. He answered "yes," Mr. Hopkins, as I understood it.

MR. HOPKINS: We have no further questions.

RE-DIRECT EXAMINATION

BY MR. HUNT:

Q Now, Mr. Headley, with respect to the interrogation which you were put through by the House Managers in Miami, will you state who was present?

A All four of these gentlemen. I believe there was a lady taking notes, and I think people walked in and out a couple of times.

Q Who undertook to place you under oath on that occasion?

A Paul Johnson and Mr. Musselman, and the other gentleman, too, who just questioned me.

Q Who placed you under oath before you were questioned, as you recall?

A I don't recall. It was someone there. I don't recall.

Q Following your statement to the House Managers did you have any further conversation with either of them with respect to this matter?

A No sir.

Q Did you have any further conversation with Mr. Manager Musselman pertaining to the investigation of the matter?

A I haven't talked to Mr. Musselman other than speaking to him in the hall a couple of times—nothing pertaining to this accident—since the meeting in Miami Springs.

Q Just what type of subpoena did you have to appear before these gentlemen in Miami?

A It was a subpoena. I don't recall.

Q A written subpoena?

A It was typed, yes sir.

Q By whom was it signed?

A Mr. Musselman.

Q It was signed by Mr. Musselman?

A Yes sir.

MR. HUNT: That is all.

MR. HOPKINS: We have no further questions. We would like to hold this witness for the time being.

MR. HUNT: Mr. Headley?

MR. HOPKINS: Yes, and not excuse him at this time.

MR. HUNT: How about Mr. Gschwind?

MR. HOPKINS: We have no objection to excusing Mr. Gschwind.

(Witness excused from stand).

SENATOR DAVIS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Davis.

SENATOR DAVIS: With the court's permission, I would like to ask the attorneys a question with reference to policy tomorrow. Several members of the Senate have asked or are very anxious to know something about how early we will adjourn.

Do you have any idea how many witnesses you will have here tomorrow and how much time it will take to take their testimony?

MR. HUNT: That depends on the headway we make this afternoon. My estimate wouldn't be any good.

SENATOR DAVIS: Thank you, sir.

MR. HUNT: A little later on in the day I believe I can answer the question, but right now I can't.

SENATOR DAVIS: Mr. Chief Justice, I move you that the Senate now go into Executive Session.

(The motion was seconded from the floor).

CHIEF JUSTICE TERRELL: You have heard the motion.

CHIEF JUSTICE TERRELL: All in favor of the motion let it be known by saying "aye."

(Those in favor of the motion so voted.)

CHIEF JUSTICE TERRELL: Opposed, "no."

(There were no votes in opposition to the motion).

Whereupon, at 11:52 o'clock a.m., all persons not members of the Senate, except Chief Justice Terrell and Secretary Davis, were excluded from the Chamber, and the doors thereto were closed. Thereafter, at 12:05 o'clock p.m., the doors were opened.

SENATOR DAVIS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Davis.

SENATOR DAVIS: Point of order. The hour of recess has arrived.

CHIEF JUSTICE TERRELL: The point is well taken and the Court will stand in recess.

Whereupon the Senate recessed at 12:05 o'clock, p.m., until 2:00 o'clock p.m., of the same day.

AFTERNOON SESSION

The Senate was called to order at 2:00 o'clock, p.m., by Chief Justice Terrell, pursuant to recess order.

CHIEF JUSTICE TERRELL: Judge Hunt, are you ready?

MR. HUNT: Yes, sir.

CHIEF JUSTICE TERRELL: Order in Court. The Chair declares a quorum present.

MR. HUNT: Is the Court ready?

CHIEF JUSTICE TERRELL: Yes.

MR. HUNT: Will you call Mr. MacAleer?

SENATOR DAVIS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Yes, sir.

SENATOR DAVIS: While we are waiting for the next witness to come in, I would like to announce to the Senate that we had a meeting of the Rules Committee, a majority of the Rules Committee, together with one or two other Senators and also with Attorneys on both sides. It was thought that there was a possibility that the Defendant can finish with his available witnesses by twelve o'clock tomorrow. However, if he cannot finish with the ones present, he felt that he could probably finish at least by one o'clock; so in the morning we could have a session, which will probably adjourn at twelve o'clock, but we might have to run on until one. We will adjourn not later than one o'clock tomorrow—or we recommend that we adjourn not later than one o'clock tomorrow; that on Monday we convene at two o'clock and stay in session until six. That will give us four hours work on Monday; that on Tuesday we will follow the same schedule that we have now.

If that is appropriate and agreeable, Mr. Chief Justice—

SENATOR JOHNS: Does the Senator yield?

SENATOR DAVIS: Yes, sir.

SENATOR JOHNS: If the Defense doesn't get through with their witnesses by one o'clock will we adjourn anyhow?

SENATOR DAVIS: Beg pardon?

SENATOR JOHNS: If he doesn't get through with his witnesses by one o'clock will we stay here until two?

SENATOR DAVIS: No sir, we will adjourn not later than one o'clock.

SENATOR JOHNS: Regardless of whether or not the witnesses have been heard?

SENATOR DAVIS: Regardless of whether they have been heard or not. However, the Defense say that in all probability they can finish by twelve o'clock, and by one o'clock at the most, and if they don't finish by that time with their available witnesses they will then have to bring back maybe one or two of those, or keep them up here until Monday.

CHIEF JUSTICE TERRELL: Then we will be in session tomorrow from nine-thirty until possibly one, maybe twelve, and on Monday from two to six?

SENATOR DAVIS: Yes, sir.

CHIEF JUSTICE TERRELL: Any objection?

SENATOR JOHNS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Johns.

SENATOR JOHNS: As this trial is considerable expense to the taxpayers of this State, I want to be recorded as voting against this motion. If it is an "aye" and "no" vote, I want to record my vote "no."

SENATOR DAVIS: I would like to put that in the form of a motion.

(The motion was seconded from the floor).

CHIEF JUSTICE TERRELL: The motion is seconded. It has been moved and seconded that the Senate convene tomorrow at nine-thirty and stay in session until twelve o'clock, and maybe one o'clock, depending - -

SENATOR JOHNS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Johns.

SENATOR JOHNS: Can I ask the gentleman a question.

CHIEF JUSTICE TERRELL: Yes.

SENATOR JOHNS: Senator, if we decide to stay here tomorrow, does the Attorney for the Respondent have a sufficient number of witnesses that would carry us on into tomorrow afternoon, and is it possible for them to have a sufficient number of witnesses, and so forth, here, so that they could be heard on Saturday? I would like to know about that.

SENATOR DAVIS: Senator, the only information that I have is this: That the Defense has a sufficient number of witnesses at least to run through twelve o'clock tomorrow, and possibly one. The other witnesses have been scheduled to appear here beginning next week.

SENATOR JOHNS: In other words, if we stayed here and heard this witness, if we did not adjourn - -

SENATOR DAVIS: If we did not adjourn the witnesses would stay here.

SENATOR JOHNS: Therefore we would not be costing the State any extra money. Is that correct?

SENATOR DAVIS: I think that is correct. I might say this - -

SENATOR JOHNS: Will the Senator yield?

SENATOR DAVIS: Yes.

SENATOR JOHNS: Wouldn't it be impossible for the Defense to get additional witnesses between now and one o'clock tomorrow?

SENATOR DAVIS: I have just stated what the Defense told me. I don't know what will be possible. I cannot answer that. I suggest you ask the Attorney for the Defense that.

CHIEF JUSTICE TERRELL: Call the roll, Mr. Secretary.

Secretary Davis called the roll and the vote was:

Yeas—30.

Adams	Carraway	Hodges	Pearce
Barber	Clarke	Houghton	Pope
Beall	Connor	Johnson	Rawls
Bishop	Davis	Kelly	Shands
Boyd	Edwards	Kicklitter	Stenstrom
Brackin	Gautier	Knight	Stratton
Branch	Getzen	Morgan	
Carlton	Hair	Neblett	

Nays—5.

Belser	Dickinson	Eaton	Johns
Cabot			

CHIEF JUSTICE TERRELL: The motion is adopted. Court will be in session tomorrow from nine-thirty until possibly one, and on Monday, then, from two until six.

MR. HUNT: Will you call Mr. Schultz, please?

Thereupon,

LEON F. SCHULTZ,

a witness called and duly sworn in behalf of the Respondent, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HUNT:

Q Will you please state your name?

A Leon F. Schultz.

Q Leon F. Schultz?

A Yes sir.

Q Where do you reside, Mr. Schultz?

A 359 Northeast 20th Street, Miami, Florida.

Q I can't hear you.

A 359 Northeast 20th Street, Miami, Florida.

Q Mr. Schultz, what is your business or occupation?

A As of now, sir, I have a Merchant Patrol and investigative service.

Q In what section of the town?

A My office is located at 86 Northeast 20th Street, Miami, Florida.

Q How long have you been engaged in that business, Mr. Schultz?

A I just started, sir, about two weeks ago.

Q What business were you in prior to that time?

A I was in the funeral profession, sir.

Q In Miami?

A Yes sir, and - -

Q Go ahead.

A Miami and Miami Beach, both.

Q Where were you located at that time?

A I was located on Alton Road, in Miami Beach, in Riverside, and I worked for awhile over on Riverside on Flagler Street, 2108 West Flagler Street, in Miami.

Q Were you an independent contractor in that business or did you work for someone?

A I worked for the funeral home.

Q For whom did you work?

A It was the Riverside Funeral Home.

Q For about what period of time were you engaged in that line of endeavor?

A I worked there right after I left the Police Department, sir.

Q What Police Department do you refer to?

A The Dade County Police Department.

Q How long had you been on the Dade County Police Department?

A About three years.

Q During the time you were on the Dade County Police Department what particular assignments did you have in the course of your duties?

A I worked squad car, then I was transferred for awhile to Jackson Hospital, in charge of the various records. When the other policemen would bring in accidents, and so forth, I would see that everyone that came to Jackson had a record made on them.

Q And where, specifically, at Jackson Memorial Hospital did you hold forth?

A My office was in the rear of the Emergency Room.

Q In the rear of the Emergency Room?

A Yes sir, directly behind the Emergency Room.

Q You had an office there?

A Yes sir, I did have.

Q For what period of time were you on duty at Jackson Memorial Hospital as a Dade County Policeman?

A You mean the length of time?

Q Yes.

A I was there, I would say, about eleven months, sir.

Q Were you on duty at the Jackson Memorial Hospital on the early morning of December 21, 1955, when Judge George E. Holt was brought in, in an injured condition?

A That's right, I was.

Q Will you state to the Senate where Judge Holt was when you saw him and what you observed and everything you did in your official capacity in connection with that man?

A Yes sir. I was in my office, and I received a call from the Miami Police Department stating that Officers Headley and Gschwind were sending in some people involved in an accident, so I went out and notified the nurses, which I usually do, and the internes, so that they are ready, in case we need anything, and I was standing in the hall when Judge Holt was brought down the hall, on a stretcher. He made a small left turn right in front of the white Emergency room. I was standing there with a young nurse, who was a student nurse. It was my procedure when a person came in like that to see about their valuables and see that they were treated, so I asked the nurse if she would see about the valuables on the Judge, so she took the wallet from the Judge and counted the money and handed it to me and I counted the money. The money was taken from this wallet, and I counted, I believe at that time, \$952. She witnessed me count it and I witnessed her count it.

Q Was Judge Holt unconscious?

A Yes sir, he was.

Q During the course of your counting that money did someone make a photograph of the proceedings?

A Well, sir, that happened in my office, in the back. I had taken the money back with me. Naturally, with that large amount of money, I re-checked it again and laid it on my desk, and at that time a reporter - - there were several of them there - - took a picture of me counting the money.

Q Were you furnished with one of those pictures?

A Yes sir. In those cases where something like that happened, as a matter of protection to us, why, I always have them to send me a picture if they take it at the hospital, and a picture was sent to me.

Q Did you mail that picture to me about two weeks ago?

A That's right, I did.

Q I show you what appears to be a picture of yourself, in uniform, with an amount of currency in front of you. Is that the picture to which you have referred?

A That's it.

Q And is that Judge Holt's wallet, right alongside the money?

A That is Judge Holt's wallet and that is Judge Holt's money.

Q Was all the currency taken from that wallet?

A Yes, it was, from the inside; in the folder inside. The money was in there.

Q Did Judge Holt have on his person any loose bills, not folded within that wallet?

A No sir, he did not.

MR. HUNT: We offer this picture in evidence, if the Court please.

MR. HOPKINS: May I see it?

MR. HUNT: Yes sir.

(The photograph having been examined by counsel for the House Managers, and there being no objection, the same was received in evidence as Respondent's Exhibit 6).

BY MR. HUNT:

Q Mr. Schultz, do you recall, from your memory, about what time of night or morning these events transpired?

A No sir, that I couldn't say exactly, because I have a lot of people coming in and I couldn't pin that time down.

Q When did you know or find out that the injured person was Judge Holt?

A Well, in the wallet, sir, there were several cards - - I would say maybe eight or ten - - and I noticed that they were all the same one. I believe they said "Senior Circuit Judge George E. Holt," so I turned to the couple that were standing there and I said, "This must be Judge Holt here." Later, we cleared that up through Identification, but up until that time I wasn't certain at all.

Q Do you recall which particular newspaper photographer made that picture?

A No sir, I don't, because there was usually - - well, you get a bad accident, or anything, and you usually have four or five photographers there. Now, there's some of them I don't know, but I do usually like, if they take a picture, they are usually supposed to have permission, anyway, to do that, and I want a copy of that, and especially where the Judge was unconscious and hadn't given the right to take it. That was my reason, the main reason I asked for the picture.

Q Do you recall who else was present when that money was counted?

A Well, there was a student nurse with me outside. When I went in back and counted it, then I surrendered the money to Officer Headley, of the Miami Police Department, after counting it thoroughly and asking him to count it so I could watch him. Then I saw him put it in a brown envelope, and I signed my name to that, releasing me from the money.

Q Then after you counted it by taking it from Judge Holt's wallet and counting it while that picture was flashed, you then returned it to the wallet and gave it to Officer Headley?

A No sir. I handed him the money and the wallet. I didn't put the money back in the wallet. I laid the money on top of the wallet and handed it over the window of my office to Officer Headley.

Q What do you mean by "over the window"?

A Well, I have a little office there inside the Emergency Room, and my office itself has a desk and a typewriter, and so forth, and it has a small window, and if there are any people in there talking to me I talk to them through that little window, and Officers Headley and Gschwind at the time were outside the window.

Q And then did they recount the money in your presence?

A Oh, yes sir.

Q Did they give you a receipt for it?

A I didn't get a receipt, because I signed the envelope. The envelope itself is good enough for me. It was a hospital property envelope, and they put everything in it, and that was good enough for me.

Q And who took these valuables out of Judge Holt's pocket?

A The wallet was taken by a student nurse.

Q And was handed to you?

A That is correct.

Q What other valuables do you recall?

A I did not deal with any other valuables at all. The money was my concern. As far as the rings, if there were any rings or anything, I don't know. I usually get the head nurse to take care of that.

Q And there were nurses on the job at that time?

A Yes sir, there was.

Q Mr. Schultz, did you make any effort to determine whether or not the odor of alcohol was on Judge Holt's breath?

A Well, my opinion on that would be that the man was unconscious and, naturally, he was moaning and groaning, and he was blowing his breath, like a lot of people do in an accident, or something like that, and I couldn't smell any alcohol whatsoever.

Q How close did you get to him?

A Oh, I guess I was about a foot from him.

Q And at that time you didn't notice any?

A That's right.

Q Now, I will ask you to state whether or not you ever saw me before yesterday?

A No sir, I have not.

Q I will ask you to state how you first informed Judge Holt or me of your whereabouts and of your participation in the matter that night?

A Well, I called you, I believe, about two weeks ago, from the office that I have, and told you that I would like to help you if you needed me, that I would be glad to do so, and I told you that I had a picture. You told me that you would like to have the picture and asked me if I would mail it to you, which I did. I sent it to your office. I then hung up and called Judge Holt and told him the same thing -- that I would be glad to assist you in any way I could.

Q Had anyone discussed the matter with you before?

A No sir. I wondered about it -- that no one had ever approached me in any manner about it. I certainly never had been confronted with it at all.

Q Do you recall at that time about what your duty hours were at the hospital?

A Well, the night shift was always -- I always worked the same. Is that what you mean?

Q Yes.

A I always run three to eleven, eleven to seven, then I worked seven to three.

Q Have you ever had any business or personal relations of any kind with Judge Holt?

A No, I haven't.

Q Do you know him personally?

A No sir, I don't. I've only seen his pictures, that's all, and when I saw him here since I've been here.

Q Did you know me personally before yesterday?

A No sir, I did not.

MR. HUNT: Take the witness.

MR. HOPKINS: The Managers have no questions.

(Witness excused from stand).

Thereupon,

CHARLES J. MacALEER,

a witness called and duly sworn in behalf of the Respondent, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HUNT:

Q Would you please state your name?

A Charles J. MacAleer, M-a-c-A-l-e-e-r.

Q Mr. MacAleer, where do you reside?

A 636 Northeast 70th Street, Miami, Florida.

Q How long have you resided in Dade County, Florida?

A Fourteen years.

Q Will you please state your business or profession?

A I am an investigator and adjuster.

Q Do you do investigation and adjusting work in connection with a law firm in which Mr. William C. Gaither, of Miami, is a partner?

A I'm employed explicitly by that firm.

Q How long have you been in the work of adjusting and investigating?

A About twenty-six years.

Q I will ask you to state whether or not, on December 21, 1955, you were requested or instructed to conduct an investigation of the events leading up to an accident in which Judge George E. Holt had been injured?

A I was.

Q Who gave you such instructions?

A It was Mr. William C. Gaither, of that firm.

Q In the course of that investigation what did you do?

A Upon his request to make a preliminary investigation, I proceeded to the restaurant of Mr. Riccio, on 79th Street, Miami, Florida.

Q Where is that on 79th Street, approximately?

A It is about a mile in from the Boulevard, and on the north side.

Q On the north side of 79th Street?

A On the north side of 79th Street.

Q And when you arrived at the restaurant of Riccio, who did you see?

A When I arrived at the restaurant I met Mr. Riccio and I inquired if his wife was present. He said no, but she would be there in a few minutes, and after she arrived I started my discussion with both Mr. Riccio and his wife and others.

Q And what others? Do you recall?

A I talked to the waiter and I also talked to the outside doorman.

Q Do you recall the name of the waiter?

A The waiter's name was Joe -- Joe Minelli, or something like that.

Q Have you recognized him in the witness room?

A I have seen him in the witness room this week.

Q Do you recall the name of the doorman?

A I can't hazard the name at this time, but I would know him. He is a man a little stouter than Joe. I really can't recall his name at this time.

Q Have you recognized him in the witness room?

A Yes sir, I have.

Q As a result of that investigation, did you determine that Judge Holt had been at Riccio's Restaurant - -

MR. HOPKINS: If the Court please - -

MR. HUNT: Just a moment, until I finish the question.

MR. HOPKINS: I would like to ask the witness not to answer until I have a chance to object.

MR. HUNT: I will ask him that. Don't answer until Mr. Hopkins has an opportunity to object.

BY MR. HUNT:

Q Did you determine whether or not Judge Holt had visited Riccio's Restaurant - -

MR. HOPKINS: May it please the Court, we object.

Q - - shortly prior to the accident?

MR. HOPKINS: We object to that as being hearsay. We would be deprived of any chance of cross examining those that might have seen him there. We think this is entirely improper.

CHIEF JUSTICE TERRELL: The objection is overruled.

MR. HUNT: Answer the question.

A I did, I talked to all those mentioned in respect to the point you just raised, as to what time the Judge had gotten there and what time he left.

Q Did you, upon the completion of that investigation at Riccio's, leave any paper or your calling card, or anything of that nature?

A I did leave my own personal official card.

Q After investigating the matter at Riccio's what did you do in the course of your investigation that day?

MR. HOPKINS: Your Honor please, I would like to object to that as being immaterial, what this investigator did. That would be like allowing us to testify that somebody told us in Miami that Judge Holt was drunk at a certain time.

MR. HUNT: Your Honor, I haven't mentioned any such a word. The word "drunk" has only come from the table of the prosecution. I have not asked this witness for any hearsay. I am just asking him to state what he did, whom he spoke to and what he observed. I will not ask him any leading questions.

CHIEF JUSTICE TERRELL: Answer the question.

BY MR. HUNT:

Q What else did you do?

A After spending about forty-five minutes or close to an hour at Riccio's, I proceeded to a gas station at the corner of 36th Street and 7th Avenue, Miami.

Q What did you do there?

A I inquired the name and the location of anybody who might have any knowledge of Judge Holt's presence at that station the night before.

Q Did you find any such person at that filling station?

MR. HOPKINS: If the Court please, we renew the objection. I apologize for doing it, but we think it is highly incompetent for this man to testify what he's found at a certain place, or what he was told. We think it is hearsay, and that they should bring the witness himself here and have him answer.

CHIEF JUSTICE TERRELL: The objection is overruled.

A Inquiring of the attendant on duty at that time - - he seemed to know what I was pointing at, and he said, "The man who was here last night is not here today, but I'll tell you where you can find him."

Q Did he tell you where you could find him?

A He did. He told me he was a part-time man at that station but that at that hour he wasn't there, but was at a paint shop farther up on 7th Avenue, in the vicinity of 67th or 68th Street.

Q Do you recall what paint shop it was?

A It was Crane Brothers, C-r-a-n-e.

Q Did you then go to Crane Brothers, looking for the man?

A I did.

Q Had you been given his name at that filling station?

A Yes, I had been given a name.

Q What name?

A I believe - - I'm sure the name was Shannon.

Q When you arrived at the paint shop - - I think you said it was Crane - -

A Crane Brothers.

Q Crane Brothers?

A Yes sir.

Q Did you find Mr. Shannon?

A I inquired as to his whereabouts and was told by the manager that I could find him in the paint shop at the rear of the service station.

Q What kind of a business was that?

A I believe they have a regular service station in front, and they do paint and body work in the rear, in a building adjoining.

Q Then did you go to the paint shop also and find Mr. Shannon?

A I did, sir.

Q Did you discuss the events of the previous night with Mr. Shannon?

A I did.

Q Have you recognized Mr. Shannon up here since you have been in Tallahassee?

A I've not seen him. I arrived yesterday and I've not seen him, to my knowledge.

Q Did you talk to anyone except Mr. Shannon up there?

A I attempted to talk to another man, Mac somebody, but he wouldn't talk to me, didn't talk to me.

Q Would you describe that man?

A The man was bigger than Shannon, I would say. I noticed that he walked with a pronounced limp.

Q He walked with a pronounced limp?

A He did, sir.

Q In your discussion with Mr. Shannon concerning the occurrences of the previous night would you tell the Senate what he related to you?

A I asked him if he had any knowledge of the presence of an automobile, a sports car model - -

MR. HOPKINS: If the Court please, I would like to interject an objection here. We object to that on the ground that the proper predicate has not been laid to try to impeach this witness.

MR. HUNT: Does the Court want to hear from me?

CHIEF JUSTICE TERRELL: Yes.

MR. HUNT: When Mr. Shannon was on the stand we gave him every opportunity to state whether or not he had been questioned by an investigator and whether or not he exhibited any animus or dislike or intense bitterness against Judge Holt, and he denied it.

MR. HOPKINS: If the Court please, I don't recall anything in the record about any investigator, if you want to check the record I think this is the first time that we have had any investigator mentioned in this case.

CHIEF JUSTICE TERRELL: Answer the question.

MR. HUNT: Answer the question.

A Will you please ask it again?

BY MR. HUNT:

Q Just state what Mr. Shannon told you about the previous night's occurrences relating to Judge Holt.

A He said, "Yes, I was on duty when this car pulled into the yard." He did not mention the name of the driver at that time.

Q Did he state what the driver had done or said?

A As I recall it, he said the car pulled into the yard while he was servicing another car, and in a few seconds he went over to this sports car, as he called it, and said, "Can I be of any service to you?" or "Can I help you?"

Q Did he tell you who was in the sports car?

A No, he didn't. He told me he had learned from the papers that it was Judge Holt, but that he did not know him at the time.

Q Did he or not mention a dog?

A He did.

Q He did?

A He said the occupant of the car had a black French poodle sitting in the front seat with him.

Q State what he said happened after he approached the car.

A He said, "I walked over there and, having asked him if I could be of any service to him," Shannon said, and he said he said "Shall I fill it up?" The driver of the car said, "I don't know. Check it yourself." Mr. Shannon said, "I started to check the car and I walked around to the side where the dog was sitting and I started to admire the dog and petting him. I was no great hurry, and the man who I later discovered was Judge Holt said, 'Do you like my dog?'" He said, "I do like him. I wish I had him." He said Judge Holt said, "I bought him in Europe." I asked him if he was a friendly dog and he said, "I guess he was. He didn't bite me." I then asked him what he next did, and he said, "I started to go back and service another car, when Judge Holt displayed a roll of bills that would choke a bull." I asked him did he service the car eventually. He said, "I went back to the car and started petting the dog again," and he then stated that apparently the Judge didn't need any gas or oil, at which time I said, "What was the appearance of Judge Holt at the time?" He said, "He didn't say very much. He took off his glasses and wiped them." I interrogated him and asked him if, in his opinion, the Judge had been drinking, to which he replied, "I think he was." I asked him by what means he drew that conclusion and he stated, "Anybody who will run a red light must have been drinking." We then discussed whether he had any personal knowledge of the condition of Judge Holt, and he said, "Only what I have read in the newspapers." I asked him again did he smell Judge Holt's breath and he said, "No. I was on the dog's side of the car," and I said, "Did he talk coherently?" and he said, "I don't know what you mean." I said, "Did he act like a normal man?" and he said, "Buddy, you're taking up too much of my time. You're costing me money." I asked him what he meant, and he stated that he was a piece worker.

Q A piece worker?

A A piece worker. Apparently, he was working by the

hour. In the meantime, the other man stood by and said nothing. I asked him then what happened after he last petted the dog. He said, "I had another service call at the next pump and I moved over to it, and in a few seconds I looked back and the car was gone." I asked him in what direction the car went, and he repeated, "The car was gone. I don't know."

Q Did he tell you whether or not the money which he said would choke a bull was in a wad or in what form it was?

A My recollection is that Judge Holt allegedly removed it from his pocket, not in a wallet.

Q Did he say anything about what he did with the money?

A He said he put it back in his pocket. He said, "At first I thought maybe the Judge wanted some change, as long as he didn't want any service."

Q Did he ever tell you or mention to you anything about the Judge coming in there looking for a drink?

A He never did.

Q Do you recall the time element, according to his conversation, as to about when the Judge departed from his filling station?

A I distinctly asked him that question, to which he replied that he thought it was around eleven-fifteen or twenty - before eleven-thirty.

Q I will ask you to state whether or not, in the course of his conversation, Mr. Shannon used any strong terms or profanity indicating any feeling that he might have against Judge Holt?

A Mr. Shannon was - -

Q Will you speak out, please?

A Mr. Shannon was both vulgar and profane.

Q Will you state what he said?

A He volunteered the statement, "I hate drunks." I said to him, "How do you know Judge Holt was drunk?" He again referred to the morning newspaper and asked me if I could read. I said, "I have read the morning newspaper and I don't recall any accusation of the Judge being drunk, as recited in the paper." He just stated, very loud - - well, it was pure vulgarity.

Q Will you state what he said?

A Mr. Shannon said, "I hate drunks, and I hope they burn his ass."

Q Did you report the result of those investigations back to Mr. Gaither?

A As I recall, I had other work to do that afternoon, and I stopped the investigation on that particular angle and called Mr. Gaither at his home that night and reported substantially what I have testified here today. Mr. Gaither said, "That's all for the present. I'll talk to you about it later."

Q Did you have any further connection with the investigation of this matter?

A I had nothing further requested of me until about seven or eight weeks ago. Yourself, Judge Hunt, asked me to come to your office and discuss this subject matter. I went over there and we did discuss it briefly, to which you replied, "We may call you as a witness." I was thereafter subpoenaed some time last week and I arrived in Tallahassee yesterday morning.

Q I will ask you to state whether or not on that occasion you were presented with a business card by me, which you had left with Riccio?

A You did, sir. I will qualify that: I mean to say you displayed my card, which I had left at Riccio's.

Q Do you have any personal interest, Mr. MacAleer - -

A None whatsoever.

Q - - in this case?

A None whatsoever.

Q Have you ever had any business or social contacts or relations with Judge Holt?

A Only a speaking acquaintance with Judge Holt. I have been in his Court while I was servicing the attorneys for whom I was employed.

Q Have you likewise appeared before all other Circuit Judges in Dade County in that respect?

A I'm constantly in each of their divisions.

MR. HUNT: Take the witness.

CROSS EXAMINATION

BY MR. JOHNSON:

Q Mr. MacAleer, is Mr. Gaither's firm that same firm with which Mr. Perry Nichols, the noted negligence lawyer, is associated?

A The firm is called Nichols, Gaither, Green, Frates and Beckham, et al.

Q Are you regularly employed as a part of the staff of that firm?

A I have been with them exclusively for eight years.

Q In other words, you're on their payroll?

A I am, sir.

Q Is that the firm that I understand deals almost exclusively with the plaintiffs' side of negligence cases, as distinguished from the defendants' side?

A Negligence, cases only; no defense work.

Q Who employed the firm to investigate this accident of Judge Holt?

A If I may relate the message that I got from Mr. Gaither, he said, "I had a telephone call from Mrs. Holt to look into a certain - -

MR. HUNT: I can't hear you. Would you repeat that?

A "I had received a call from Mrs. Holt asking me" - - that's Mr. Gaither - - "to look into the circumstances of an accident which befell Judge Holt the night before." She mentioned to Mr. Gaither that it was her understanding that he had had dinner at Riccio's shortly before the accident. That gave me the first information as to where I should go to start my investigation.

Q What time of day was that, that you were first put on the case?

A That was around ten-thirty of the morning following the accident, in Mr. Gaither's office.

Q To your knowledge, had anybody from your firm or from Judge Holt's family contacted Riccio's prior to getting on the case?

A I would not know that.

Q As I understand it, Judge Holt had been unconscious since the time of the accident for a period of two weeks. Is that right?

A It's all hearsay to me. I believe it is true.

Q But you knew on the morning after the accident, at ten o'clock in the morning, that Judge Holt had been at Riccio's?

A I didn't know it myself. The morning paper had quite an account of the accident, and apparently Mrs. Holt had telephoned Mr. Gaither some time prior to the time he requested my investigation.

Q When you went to Riccio's did you learn that Mrs. Holt had been to Riccio's also, with Judge Holt?

A When I got to Riccio's, on interrogation they told me that he had come in there alone, with the exception of his dog.

Q So you don't know, then, where the information was obtained that Judge Holt had gone to Riccio's, do you?

A Like I stated—I am quoting Mr. Gaither - - "I had a telephone call from Mrs. Holt asking me to have a preliminary investigation made as to the night of the accident, telling me that her husband had been at Riccio's."

Q Were you employed then or directed to do a specific job - - that is, go to Riccio's?

A I believe they left it to my own judgment and I assume that that would be the place to start.

Q Were you directed specifically to go to the intersection of 7th Avenue and 36th Street, to that Shell filling station?

A I believe that I learned more about the second operation - - that is, the gas station - - I believe I learned that from Riccio's.

Q Is Riccio's - - go ahead.

A From Riccio's Restaurant. I believe that somebody said that Judge Holt had been in the vicinity of the gas station, that gas station. All that they could tell me was that it was a gas station near a Fire Station - - that is, the City Fire Department, which happens to be located at that corner.

Q Did the people at Riccio's indicate to you that Judge Holt had left alone, going to that particular gas station?

A They did not say. In talking with everybody at Riccio's, they said that after eleven o'clock - - they even mentioned that they were putting out the lights - - was when he left the yard.

Q Do you know who Riccio is?

A I never met him until the occasion of that visit.

Q Have you learned anything about his past since you commenced that investigation?

A I never have.

Q You know nothing about his criminal records?

A No, nothing. I know nothing about Mr. Riccio.

Q Either by hearsay or direct knowledge?

MR. HUNT: Your Honor, hearsay wouldn't be permissible.

MR. JOHNSON: I understand that he has been testifying to hearsay all the time he's been on the stand.

MR. HUNT: We object, if Your Honor please.

CHIEF JUSTICE TERRELL: The objection is overruled.

BY MR. JOHNSON:

Q You know nothing about Mr. Riccio's criminal record?

MR. HUNT: Your Honor please, Riccio is not on trial here. Judge George E. Holt is on trial, and Riccio's criminal record couldn't possibly have any bearing on this case.

CHIEF JUSTICE TERRELL: The objection is overruled.

A I never heard anything about Riccio except that he ran a restaurant.

Q Isn't it common knowledge in Miami - -

MR. HUNT: Well, Your Honor, I object to the common knowledge in Miami. He is putting the answer in the witness' mouth.

MR. JOHNSON: This is cross examination, Your Honor please.

MR. HUNT: The witness has said that he has never heard anything about Riccio except that he operates a restaurant.

MR. JOHNSON: Let me withdraw the question and put this one.

BY MR. JOHNSON:

Q Would you believe Mr. Riccio on oath, based upon his prior criminal record?

MR. HUNT: Your Honor please, there is no evidence what-

ever before this Senate about Mr. Riccio or his record, and we object.

CHIEF JUSTICE TERRELL: Objection sustained.

BY MR. JOHNSON:

Q Mr. MacAleer, I think you indicated that you went to Riccio's upon direction, and from there you were directed to a certain filling station, and from there you went to Crane Brothers?

A That's right.

Q Did you go any place else to ascertain the facts of this case?

A I did. I canvassed the Fire Station, which is immediately across the street, thinking perhaps a fireman may have been off duty and had some knowledge of the matter which I was investigating.

Q Did you go to any bars in the area of the filling station, the Shell station, on 7th Avenue and 36th Street?

A I did not.

Q Let me ask you this specifically: At any time did you go to Smith Brothers Bar or the Pig and Whistle or the White Lounge?

A I did not.

Q To your knowledge, did anybody from your office go to those bars in an attempt to ascertain whether Judge Holt had been there?

A I will say that I have no knowledge of anybody investigating the matter but me.

Q Where are your original notes that you made at the time you conducted this investigation?

A I made no notes whatsoever. I had a memory of everything, and I reported it.

Q Isn't it customary, Mr. MacAleer, for investigators to make notes of what they do in connection with an investigation of any case?

A In my case, unless I attempt to take a statement - - and I might add that I attempted to take a statement from Shannon, and he resented it and said, "Lay that pencil down."

Q Did you make any notes of the facts that he made in that statement?

A I didn't make any notes. My memory within the next twenty-four hours was very keen.

Q You handle a great many different, varying cases for the law firm with which you're engaged, do you not?

A Of course I do.

Q But yet it is your statement that you did not make notes concerning what you did in connection with this investigation?

A Not when I reported as early as I did in this matter, at which time I was told that that was enough of the investigation.

Q Was your report reduced to writing?

A I did not reduce it to writing. In many instances I make notes and dictate it on a machine, but in this case I remembered all that I had done and I reported to Mr. Gaither and he said, "Drop the matter." When they tell me to drop a thing I figure that the investigation is at least terminated.

Q Now, I note that you said that you were inquiring of everyone whether Judge Holt was drunk or not. Why should you be directing your inquiry to that subject?

A I didn't inquire of anybody except the people at Riccio's, and Shannon and his fellow employee. I asked them that because I was very anxious to know what might have occasioned the crash.

Q Mr. MacAleer, did you say that Joseph Morelli was one of the witnesses that you talked to at Riccio's Restaurant?

A I would say that it was Joe Morelli or Morani. There were supposed to be two waiters on duty the night of the visit by Judge Holt, but only one of the waiters was present at Riccio's the day I was there.

Q Do you know anything about his criminal record?

A I didn't get your question.

Q I say do you have any knowledge concerning his past criminal record, prior to the time you talked to him?

A Whose criminal record?

Q The man we are talking about now, Mr. Morelli.

A I never knew he had a criminal record.

Q In other words, your statement is that you know nothing of his past. Is that correct?

A I know nothing of Riccio except that he runs a restaurant.

Q I am talking about Mr. Morelli.

A I never heard of Joe Morelli except the day I talked with him. I never inquired as to his past.

Q Did I understand your testimony to be that this detailed testimony that you have given concerning these conversations is based entirely upon your memory and not upon any notes that you may have taken at the time?

A It is based entirely on my memory.

Q And this was just one of a series of many cases that you have handled for that firm?

A My activities are centered mostly within the offices of Nichols, Gaither and Green, and I don't do very much field work. However, I do take signed statements. I have signed statements from witnesses that I have taken in cases, involving cases that they have handled.

Q How many cases do you estimate you have investigated since December of 1955?

A There must be a distinction drawn between investigating and field work. I do very little field work - - a distinction between field work and interviews.

Q How many interviews have you had in cases?

A I have about fifteen a day.

Q Do you make notes of those interviews?

A I take contracts, I write out statements, I secure signatures, and I also make notes to be passed on to other investigators for the firm.

Q Then it is customary for you to make notes and records on occasion in connection with your investigation of cases. Is that right?

A In many cases, yes. I would say that the majority of my employment is oral discussions with the other investigators.

Q Did I understand you to answer my question that no other investigator other than yourself worked on this case for your firm?

A To my knowledge, I was the only one working on the Holt case.

Q And the statement that you have given me in your testimony is a complete statement of your activities in that case?

A I did nothing more in that matter.

Q You deny having gone to any of these bars - -

MR. HUNT: He has denied that about twice, Your Honor please.

CHIEF JUSTICE TERRELL: The objection is overruled.

Q Did you go to any bar?

A I didn't have any knowledge of any bars in that neighborhood, and I made no inquiry of any bars in this matter.

MR. JOHNSON: That is all we have.

MR. HUNT: Your Honor, if there is no objection, I think we can speed it up for the rest of the afternoon if we can have about ten minutes now.

CHIEF JUSTICE TERRELL: The Senate will be in recess for about ten minutes.

MR. HUNT (To the witness): You are excused.

The witness was excused; whereupon, the Senate stood in recess from 3:05 o'clock p. m. until 3:20 o'clock p. m.

CHIEF JUSTICE TERRELL: Are you ready?

MR. HUNT: We are ready when they get back, Judge.

CHIEF JUSTICE TERRELL: Order in Court. A quorum is present.

MR. HUNT: Call Mr. Morelli.

Whereupon,

JOSEPH MORELLI,

a witness called and duly sworn in behalf of the Respondent, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HUNT:

Q Will you please state your name?

A My name is Joseph Morelli.

Q Joseph Morelli?

A Yes sir, that's right.

Q Mr. Morelli, where do you live?

A 730 Northwest 95th Street.

Q 730 Northwest 95th Street?

A That's right.

Q What is your present business or occupation?

A I am a gardener.

Q A gardener?

A That's right.

Q Do you work for someone or take jobs on private contract?

A I take jobs.

Q In gardening work?

A Yes sir.

Q How long have you been in the gardening business?

A Since I quit being a waiter.

Q Pardon?

A Since I quit the waiter work.

Q Since you quit being a waiter?

A Yes.

Q How long did you follow that occupation of a waiter?

A I was a waiter, oh, maybe fifteen years.

Q Fifteen years?

A Yes.

Q Did you ever work at Riccio's?

A Yes sir.

Q Will you state where that is located?

A It's located at 991 Northeast 79th Street.

Q What is it?

A 991 Northeast 79th Street.

Q In Miami?

A That's right.

Q Would that place be at the corner of 10th Avenue and 79th Street?

A That's correct.

Q How long have you worked at Riccio's?

A I worked there since July, 1950.

Q July, 1950?

A That's right.

Q And when did you last work at Riccio's?

A March, last March.

Q That would be March, 1957?

A That's right.

Q What did you do there?

A Oh, I already had a few jobs as gardener.

Q I can't hear you.

A I had already a few jobs as a gardener, and I went to work on those jobs.

Q I say what were your duties at Riccio's?

A I was employed as a waiter.

Q Were you employed as a waiter at Riccio's?

A Yes sir, I was.

Q On the night of December 20, 1955, when Judge Holt was injured, were you employed as a waiter at Riccio's?

A Yes sir.

Q Had you previously known Judge Holt?

A Yes sir, I had served him before.

Q Had he been in the restaurant before on several occasions?

A Yes sir.

Q With whom did he usually come to Riccio's Restaurant?

A Mrs. Holt.

Q What did you say?

A Mrs. Holt, and at times he had other guests.

Q Sometimes he had guests?

A Yes sir.

Q Do you recall the night he was injured?

A Yes.

Q Did you serve him that night?

A I served him, yes.

Q What duty hours did you have at Riccio's at that time?

A My duty hours over there is from four to ten, but we go in at three, before the restaurant closes at four o'clock, so that would be from three to ten.

Q But you ordinarily would have gotten off at night, that night, at ten o'clock?

A Yes sir.

Q Why did you not get off that night at ten o'clock?

A Because I had a customer.

Q Who was the customer?

A Mr. Holt.

Q What time, if you recall, did Judge Holt arrive at the restaurant that night?

A It must have been about a quarter of ten or so.

Q How do you fix the time at around a quarter to ten?

A Well, I was about to get ready to go home.

Q It was approaching the end of your duty for the day?

A That's right.

Q And did you start to serve Judge Holt when he came in?

A Yes sir.

Q Do you recall who was with him, if anyone?

A There was nobody with him when he come in.

Q Did he bring anybody with him?

A A dog.

Q He brought a dog?

A Yes.

Q Was he permitted to have the dog there in the restaurant?

A Well, this is not in the restaurant, in the dining room. It is in a cocktail lounge.

Q Where he sat is not in the main dining room?

A No sir.

Q Are there tables in the cocktail lounge?

A Yes sir.

Q And did he have a particular table where he usually sat?

A That's right.

Q Did he sit at the same table?

A The same table.

Q And he was permitted by Mr. Riccio to have the dog in that particular portion?

A Yes sir.

Q And the dog came in with him?

A That's right.

Q Now, where was the dog while you served Judge Holt?

A Alongside of him.

Q Pardon?

A Alongside of Mr. Holt.

Q Standing up or lying down?

A Sitting.

Q Sitting?

A Yes sir.

Q I will ask you to state about, if you recall - -

MR. HUNT: Your Honor, Mr. Manager Beasley sees something funny about this very serious matter, and I object to the antics he is pulling in front of the Court.

MR. BEASLEY: If the Court please, I have tried to serve the State in this case in a gentlemanly way, and I take exception to counsel's remarks. I smile sometimes, and it's none of his business when I get ready to smile.

CHIEF JUSTICE TERRELL: Continue.

BY MR. HUNT:

Q You say Judge Holt arrived at around a quarter till ten?

A That's right.

Q Did you serve him?

A I served him, yes sir.

Q Do you recall what you served him?

A Yes sir.

Q What did you serve him?

A I served him hearts of lettuce salad, a side order of spaghetti, and a steak.

Q Lettuce salad?

A Yes sir.

Q A side order of spaghetti, and steak?

A Yes.

Q What did he usually eat when he came to Riccio's?

A This same order.

Q All the time that's what he would order?

A That's right.

Q Do you recall whether or not Mr. Riccio was present that night?

A Yes sir.

Q Do you recall whether or not Mr. Riccio sat at the table and talked with Judge Holt? As he ate?

A He did. He sat at the table.

Q Did Mr. Riccio eat?

A No sir.

Q Did either one of them have anything to drink?

A Mr. Riccio had.

Q What did Mr. Riccio drink?

A He had a beer.

Q A beer?

A Yes sir.

Q Did Judge Holt have anything to drink?

A Nothing to drink.

Q Did he have anything to drink after dinner?

A No sir.

Q Did he even have a beer?

A No sir.

Q Did you have occasion to hear Judge Holt talk, and did he speak to you on that evening?

A No sir.

Q Pardon?

A Just the order, that's all.

Q Did you see Judge Holt walk in?

A No sir.

Q Did you see him walk out?

A I didn't see him walk out, no.

Q Where were you when he left?

A I was in the dining room, going on back to change, to go home.

Q To get ready to go home?

A That's right.

Q Did you notice anything unusual or abnormal about Judge Holt, as to whether he appeared to be intoxicated?

A No, I didn't.

Q Would you say that he was normal in every way?

A Of course, yes, sir.

Q And he had nothing to drink at Riccio's?

A Nothing to drink there.

Q And Mr. Riccio sat and talked with him, and Mr. Riccio drank a beer while he was there?

A Yes sir.

Q Now, about what time did Judge Holt leave?

A It must have been very close to eleven o'clock, because we were closing up.

Q You were closing?

A Yes sir.

Q What is your closing hour - - what was it?

A Eleven.

Q Did he leave immediately or did he stay around the property?

A Well, he left the restaurant as soon as he got up from the table, but I saw him standing by the cigar stand, and as I went back to change my clothes he must have went out then.

Q Did Judge Holt pay the check at the cash register or did he pay you?

A He paid it to me.

Q Did you give him the check, the check for his dinner?

A Yes.

Q The dinner check?

A Yes.

Q Did he then pay you?

A He paid me, yes.

Q Do you remember with what denomination of bill he paid you?

A The bill he paid it with?

Q Yes.

A It was a twenty-dollar bill.

Q A twenty-dollar bill?

A Yes.

Q Did you return the change to him before he left the table or after?

A Before he left the table.

Q Before he left the table?

A That's right.

Q Did he leave you a tip?

A Yes.

Q Do you recall the amount?

A I think it was a dollar.

Q Do you recall the amount of his check?

A The amount of the check?

Q Yes.

A About eight dollars.

Q About eight dollars?

A About eight, close to eight.

Q What do you charge for a steak there?

A Five dollars.

Q Five dollars?

A Yes

Q And the side order of spaghetti?

A Seventy-five cents.

Q And the salad?

A That's a dollar, I think.

Q Pardon?

A A dollar with the dressing, I think.

Q I can't hear you.

A The salad was a dollar. It was either a dollar or seventy-five cents for the salad.

Q Was there anything else on the check?

A There was that beer.

Q He had bought a beer for Riccio?

A Yes sir.

Q Do you recall what kind of beer it was?

A I think it was Heinekens Beer.

Q Heinekens?

A Yes.

Q Then did anyone go out of the restaurant with Judge Holt?

A I believe Mr. Riccio went out there.

Q Riccio went out with him?

A I believe so, because they were together.

Q I can't hear you.

A Because they were together to the last minute that he finished his dinner.

Q What did you do? What did you do towards leaving the place and finishing up your work?

A I picked up whatever was on the table - - the dirty dishes and stuff - - and I went out in the back.

Q Talk louder, please.

A To change my clothes.

Q You went back to change your clothes?

A Yes, just put my jacket and - -

Q Pardon?

A Put my jacket and a tie on.

Q Then what did you do?

A Then I went outside to go home.

Q You went outside?

A Yes sir.

Q What did you find outside?

A Outside there was Mr. Holt and Mr. Riccio standing there talking about the little car.

Q Were they standing at Judge Holt's car?

A Yes sir.

Q You say they were talking about it?

A Yes sir.

Q Where was the dog?

A The dog was in the car.

Q In the seat of the car?

A Yes. I think it was on the top, where the top comes down. I think he was sitting there.

Q Well, did you stop there and listen to some of the conversation about the car?

A I stopped, not for conversation - - just to take a look at the car.

Q What did Judge Holt do or say with respect to showing the car?

A I don't know what he said about showing the car. He was showing it to Mr. Riccio.

Q When did he show it to Mr. Riccio - - or what did he show to Riccio?

A The instrument panel, and stuff like that.

Q Did he show him the engine?

A No, not that I know.

Q You didn't see him show him the engine?

A No sir.

Q Did he ask Riccio or you to take a ride with him?

A Not me.

Q Who did he ask to take a ride with him?

A He asked Riccio.

Q He asked Riccio to take a ride with him?

A That's right.

Q Did Riccio take a ride with him?

A No sir.

Q Do you know why he didn't?

A Yes sir. They told him that the dog wouldn't let him in.

Q What's that?

A They told him the dog wouldn't let him in.

Q That the dog wouldn't let him in?

A That's right.

Q And then Riccio decided not to go. Is that right?

A That's right.

Q Now, were you there when Judge Holt got in the car and left?

A Yes sir.

Q In which direction was the car headed?

A Well, he was heading south.

Q The car was pointed south?

A Yes sir.

Q Well, that would have been toward 79th Street, in the direction of 79th Street?

A Yes sir.

Q Was it right close to the restaurant building?

A That's right.

Q Was there a light on that corner?

A Yes sir.

Q A signal light?

A That's right.

Q Were you there when Judge Holt got in the car and started off?

A Yes sir.

Q What happened with respect to the manner in which he drove away?

A Well, he sat there, and when the light turned green he made a right turn and went on his way.

Q When he got ready to go, the light was red. Is that right?

A That's right.

Q And he waited for it to turn green?

A That's right.

Q In which direction did he go?

A He went west. He started west.

Q He went west on 79th Street?

A That's right.

Q Was he in your view for any length of time or did you notice him as he went west?

A Well, I know as soon as he got off then I started walking towards the same direction to get my car, in the parking lot.

Q Was there anything unusual about the manner in which he drove the car away from the restaurant?

A No, I didn't see anything unusual.

Q Do you recall that, within the next day or so, an investigator came by there and talked to you and Mr. and Mrs. Riccio and one or two others about that matter?

A I recall a fellow coming. He wanted to know about - -

Q Was he a little man?

A What?

Q Do you recall who he was?

A You mean him?

Q The investigator.

A When?

Q The next day or so.

A Oh, yes.

Q Asking about Judge Holt having been there?

A Yes sir.

Q Have you seen that man in the witness room?

A No, I didn't see him.

Q Do you recall his name?

A No sir.

Q You don't recall his name?

A No sir.

Q Did you tell him the same thing that you have testified to here?

A That's right.

MR. HUNT: Take the witness.

CROSS EXAMINATION

BY MR. HOPKINS:

Q Mr. Morelli, is Joseph Riccio also known as Joseph J. Cordina?

A I don't know.

Q You don't know that?

A No sir.

Q Do you know if he is the same Riccio that was arrested in - -

MR. HUNT: Your Honor please, this is improper examination.

CHIEF JUSTICE TERRELL: The objection is overruled.

Q Is he the same Joseph Riccio that was arrested in New York City in 1930 for the crime of rape?

A I don't know, sir. I didn't know Mr. Riccio until I went to work for him.

Q Was that place raided for gambling while you were working there?

A No sir.

Q When did you start?

A When did I start?

Q Yes, when did you start working there?

A In 1950, in July.

Q Do you know if this is the same Joseph J. Riccio that was arrested for vagrancy in Poughkeepsie, New York?

A I don't know.

MR. HUNT: Your Honor please, that is patently loaded and improper examination.

CHIEF JUSTICE TERRELL: The objection is overruled.

MR. HUNT: Will the Court hear my objection, please?

CHIEF JUSTICE TERRELL: Yes, sir.

MR. HUNT: This witness has already testified that he knew nothing of Mr. Riccio prior to 1950, and it is patently prejudicial to the Respondent to permit any such type of examination.

CHIEF JUSTICE TERRELL: Proceed with your questioning.
BY MR. HOPKINS:

Q Is he the same Joseph J. Riccio that was arrested by the Sheriff's Office in Miami, Florida as Joseph J. Cordina, in 1948, for operating a gambling house?

MR. HUNT: The same objection, Your Honor.

A I don't know, sir.

CHIEF JUSTICE TERRELL: The objection is overruled.

Q Is he the same man that was fined \$300 in 1948 for running a gambling house in Miami, Florida?

MR. HUNT: If the Court please - -

A I don't know, sir.

MR. HUNT: Just a moment. I would like to be heard on this, Your Honor.

CHIEF JUSTICE TERRELL: We will hear you.

MR. HUNT: I want to state that any examination of a witness as to an inflammatory, prejudicial, supposed criminal record of a man that he didn't even know prior to 1950, when the witness has already testified that he knew nothing about him prior to 1950, is not only grossly irrelevant and immaterial, but it is patently injurious and prejudicial to the Respondent.

MR. HOPKINS: If the Court please, we will restrict it to questions regarding the man since 1950, then.

CHIEF JUSTICE TERRELL: Go ahead.

BY MR. HOPKINS:

Q Is this the same Joseph Riccio that was arrested by the Sheriff's Office on December 15, 1952, for gambling?

MR. PIERCE: May it please Your Honor, Mr. Chief Justice, if I may be heard - -

CHIEF JUSTICE TERRELL: Yes.

MR. PIERCE: As Your Honor well knows, under the law - - and that is only because of a special statute in this state - - if Mr. Riccio was on the witness stand himself, not a stranger, but if he was on the witness stand himself, counsel for the prosecution could only ask him about any previous conviction, not any arrests; so it's double-barreled inadmissible. It's about another party and it's about arrests rather than convictions.

SENATOR EATON: Mr. Chief Justice, may I make a brief statement as an associate member of this Court?

CHIEF JUSTICE TERRELL: Yes.

SENATOR EATON: I'll just simply state that it is my opinion that this line of questioning is improper. I wish to state that if Mr. Riccio had taken the stand, certainly he could be impeached by the prosecution and he can be asked whether or not he has ever been convicted of a crime.

I simply wanted to make that statement in deference to the Rules of procedure.

MR. HOPKINS: Your Honor, may I proceed along a different line of questioning?

CHIEF JUSTICE TERRELL: Yes.

BY MR. HOPKINS:

Q Is Mr. Joseph J. Riccio a professional gambler?

A I know him in the restaurant. I don't know him as anything but in the restaurant, only what I read in the papers. That's all.

Q Let me ask you a question as to his general reputation. Do you know it as that of a professional gambler?

MR. HUNT: I object to the question.

A I never did hear about that.

Q Would you give an answer to that?

MR. HUNT: I would like to have my objection ruled on.

CHIEF JUSTICE TERRELL: I don't think that question is proper, Mr. Hopkins.

BY MR. HOPKINS:

Q Where is this Riccio's place located?

A On the corner of 79th Street and Northeast 10th Avenue.

Q When did you start working there?

A It was in July, 1950.

Q From July, 1950, continuously how long did you work there?

A That would make it about close to six years.

Q Six years?

A Yes.

Q How long did you work there now? From July, 1950?

A About seven years.

Q Are you still working there?

A No sir.

Q When did you stop? That's what I'm trying to find out.

A Because I don't like to be away very much.

Q You don't like it there very much?

A No.

Q When did you last work there?

A Last March.

Q Last March?

A Yes sir.

Q Do you mean March of 1957?

A 1957, right.

Q You worked constantly there from 1950 to 1957. Is that correct?

A Yes, that's correct.

Q Were you doing any other work at that time?

A No sir.

Q Were you working part-time or full-time anywhere else during that period?

A You mean the seven years I worked there?

Q Yes.

A No sir.

Q No work whatsoever?

A No, no other work.

Q What type of work did you do at that cafe?

A A waiter, at the tables.

Q Did you also work at the bar?

A No sir.

Q Is there a bar in the cafe?

A There's a bar, yes sir.

Q Is there any gambling establishment in that same building?

A No sir.

Q Whether behind closed doors or otherwise?

A Not that I know of.

Q Wouldn't you know, having worked there seven years, whether there was a gambling place in that building?

A There is none.

Q Is there one in the adjoining building, that has a connection between the two?

A That's the Cork Club, in the same building.

Q Is there a gambling place there?

A I don't know that they gamble in there. I know they are selling whiskey. I don't know whether they gamble.

Q You worked there seven years and didn't know whether gambling was going on or not?

A I know they're not gambling there.

Q Your answer is that they were not at that time?

A They are not during this time, no.

Q Now, what street is this cafe on?

A It's on 79th Street and Northeast 10th Avenue.

Q 79th and what?

A Northeast 10th Avenue.

Q Which one of those streets runs north and south?

A 10th Avenue.

Q Where was Judge Holt's car parked at the time you went out and saw it?

A Right in front of the entrance.

Q What street would that put it on?

A That puts it on 10th Avenue.

Q It was facing in which direction?

A South.

Q Approximately how far was it from the corner?

A Oh, a couple of feet or so.

Q It was right on the corner. Is that correct?

A Yes sir.

Q No car between it and the corner, the red light?

A No.

MR. HOPKINS: We have no further questions, Your Honor.

RE-DIRECT EXAMINATION

BY MR. HUNT:

Q Mr. Morelli, do you know whether or not Judge Holt lives close by Riccio's Restaurant?

A During this case I find out he lives on 82nd Street.

Q What?

A During this case I find out that he lived on 82nd Street. Otherwise, I never know it.

Q That is right up 10th Avenue from Riccio's. Is that right?

A That's right.

MR. HUNT: That is all. Thank you.

THE WITNESS: Thank you.

MR. HUNT: You may go.

(Witness excused from stand).

MR. HUNT: Will you call Mr. Joe King?

MR. HOPKINS: Mr. Chief Justice, may we recall Mr. Morelli for one question at this time?

CHIEF JUSTICE TERRELL: Yes.

(Whereupon the witness, Morelli, not having left the Senate Chamber, took the witness stand and was questioned further).

RE-CROSS EXAMINATION

BY MR. HOPKINS:

Q Mr. Morelli, who else was in the cafe at the time Judge Holt was in there?

A There was another waiter that works late, until eleven o'clock.

Q What was his name?

A Tony Milan.

Q Tony Milan?

A That's right.

Q He worked later than you did. Is that right?

A That's right.

Q What time do you get off?

A I get off at ten normally.

Q And you leave about ten o'clock and this man works until eleven. Is that right?

A That's right.

Q And the two of you were there at the time?

A That's right.

Q Was anybody else in the place at the time Judge Holt was there?

A Nobody but the boss.

Q Nobody but what?

A Nobody else except the boss.

Q The boss was there?

A Yes.

Q That's the man I'm talking about, Joseph Riccio?

A Yes sir.

Q No customers in the place whatsoever?

A No sir.

Q What type of business is it?

A It's a dinner place.

Q What?

A A dinner place.

Q A dinner place?

A Yes sir.

Q Does it have a bar in it?

A The bar, yes, the cocktail lounge.

Q Is it visible from where you work?

A Not from the dining room.

Q Now, you were in the dining room?

A I work in the dining room and sometimes in the cocktail lounge.

Q Where was Judge Holt?

A Beg pardon?

Q Where was Judge Holt?

A He was in the cocktail lounge.

Q He was in the cocktail lounge?

A Yes sir.

Q And how long did he stay there?

A Oh, about an hour and a few minutes.

Q Is it your testimony that nobody came in whatsoever during that time?

A No.

Q None whatsoever?

A No sir.

Q Was anybody else there, either an employee or a customer, that you haven't named?

A Nobody else.

Q Was anybody outside looking at the car with Judge Holt other than you and the boss?

A Nobody else.

MR. HOPKINS: No further questions. That is all.

RE-DIRECT EXAMINATION

BY MR. HUNT:

Q Do you recall whether or not Judge Holt had a wallet? Did he have his money in a wallet?

A He pulled this money out of a wallet.

Q He pulled it out of a wallet?

A Yes.

Q And after you had given him his change do you know what he did with the bills?

A Yes.

Q What?

A I don't know whether he put it in his pocket or in his wallet. I didn't watch.

Q And he was allowed to have the dog alongside him by sitting at a table in the cocktail lounge?

A Yes sir.

Q How many people can be seated at Riccio's, Mr. Morelli? Do you know how many people can be seated?

A In the dining room?

Q Yes.

A We can seat, easily, a hundred and fifty or a hundred and seventy-five.

Q A hundred and fifty or a hundred and seventy-five?

A Yes sir.

Q Are dogs allowed in the dining room?

A No sir.

MR. HUNT: That's all.

THE WITNESS: Am I excused?

MR. HUNT: Go ahead.

MR. HOPKINS: We have no further questions.

(Witness excused.)

Thereupon,

JOSEPH KING,

a witness called and duly sworn in behalf of the Respondent, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HUNT:

Q Is your name Joseph King?

A Yes sir.

Q Mr. King, where do you reside?

A I was at Riccio's.

Q Pardon?

A You say where was I at?

Q Where do you reside? Where do you live?

A I live at 7904 Northeast 10th Avenue.

Q What is your business or occupation, Mr. King?

A Doorman, sir.

Q Doorman?

A Yes sir.

Q Where do you work?

A Riccio's Restaurant.

Q At Riccio's?

A Yes sir.

Q How long have you worked at Riccio's Restaurant?

A Around four years.

Q Pardon?

A Around four years.

Q Four years?

A Off and on, yes.

Q When did you start there?

A I just don't remember exactly when I started there.

Q But you have been there approximately four years?

A Approximately four years.

Q And, as doorman, what are your duties?

A Just to stay outside and watch for the cars that come in.

Q What do you do when a car comes in?

A I come and open the door and meet them.

Q Do you have anything to do with parking the cars?

A I do.

Q Is there a parking area there where customers' cars are parked?

A Yes sir.

- Q Where is it?
- A Right around the building.
- Q Pardon?
- A Around the building, on the right-hand side of the restaurant.
- Q Behind the restaurant?
- A Behind the restaurant, yes sir.
- Q Do you know Circuit Judge George Holt?
- A I do.
- Q Had you seen him at Riccio's Restaurant prior to December of 1955?
- A I did on a few occasions.
- Q Do you know what number of occasions you have seen him there?
- A Not exactly. I can't keep track of them.
- Q Do you know where Judge Holt lives with respect to Riccio's Restaurant, the location of the restaurant?
- A Yes sir.
- Q Where did he live?
- A Just about two blocks up.
- Q North of the restaurant?
- A North of the restaurant, yes sir.
- Q When Judge Holt would visit Riccio's would it usually be in the evening?
- A Yes, usually in the evening, yes sir.
- Q Who would come with him?
- A Oh, on different occasions it would be his wife or some friends.
- Q Did he ever come alone?
- A That's the first time I have seen him alone.
- Q What do you mean, "that's the first time"?
- A That time.
- Q Pardon?
- A The last time he was in.
- Q Do you recall the night of his automobile accident?
- A The night he was in there, yes, previous to that accident.
- Q Was he in Riccio's Restaurant right prior to the accident?
- A Yes.
- Q Did you see him there?
- A I sure did.
- Q Who was with him?
- A Just himself and the dog.
- Q Do you know where he sat in the restaurant?
- A In the lounge.
- Q In the lounge?
- A Yes.
- Q Is the lounge also referred to as the cocktail bar?
- A Yes sir.
- Q How many tables are in that portion of the restaurant?
- A I never counted them, but in the neighborhood of six, or eight or nine tables - - about eight tables in there, I think. I'm not quite sure. I never counted them.
- Q Do you know how many people, approximately, can be seated in Riccio's Restaurant?
- A You mean the whole restaurant?
- Q Yes.
- A Well, at one time he was able to accommodate around three hundred and forty.
- Q Was Judge Holt permitted to bring the dog in the lounge portion of the restaurant?
- A Well, I don't know if he was permitted or not, but just a lot of people used to bring the dogs in with them.
- Q Let me ask you this: Have other people brought dogs in there?
- A Yes sir.
- Q And where were they seated?
- A In the lounge.
- Q Are they permitted in the main dining room?
- A In the main dining room, I don't think so.
- Q Now, were you on duty on the night of December 20, 1955, when Judge Holt came by the restaurant?
- A Yes sir.
- Q Where was he when you first saw him?
- A When I first saw him he drove right up on 10th Avenue, which faces also the restaurant.
- Q Were you on the outside of the restaurant as he drove up?
- A I was outside the restaurant, yes sir.
- Q Did you see the car drive up?
- A Yes sir, I did.
- Q Did he come up in any unusual manner?
- A No sir, he did not.
- Q Did you see him get out of the car?
- A Yes sir, I did.
- Q Did you greet him outside the restaurant?
- A Yes sir, I greeted him, and he asked me how I felt. He says, "Hi, Shorty."
- Q He called you "Shorty?"
- A Yes sir, that's right. Then he said, "How's your old ticker today?"
- Q "How's your old ticker?"
- A Yes sir.
- Q Had you had heart trouble?
- A Yes, I had had two heart attacks.
- Q Did Judge Holt know that you had been having heart attacks?
- A He knew about the second one.
- Q He knew about the second one?
- A Yes sir.
- Q And he asked you how was your ticker?
- A That's right.
- Q You saw him get out of the car. Is that right?
- A Yes sir.
- Q Did he lift the dog out or did the dog jump out, or do you recall?
- A I think he lifted him out.

Q Pardon?

A He opened the door and - - or did he just lift it out? I'm not quite sure.

Q Did he take the dog in the restaurant with him?

A Yes sir.

Q Who opened the door, you or Judge Holt?

A He opened it.

Q And he walked on in the restaurant?

A Yes sir. He beat me to it.

Q He beat you to it?

A Yes sir.

Q Was there anything that you noticed that was unusual or wrong about Judge Holt's walk or his appearance or manner?

A No sir. He walked perfect.

Q Will you state whether or not he had the appearance of a man who had been drinking?

A Not to my knowledge. He didn't look like he was drinking.

Q Where did he go, now, when he went in the front door?

A He walked right into the lounge, around in the lounge.

Q Into the lounge?

A Yes. You see, there's two front doors.

Q Two front doors?

A Yes sir.

Q Which one did he go in?

A The one into the lounge.

Q Is there one that goes directly into the lounge?

A Yes sir.

Q And in taking that front door he does not go into the main dining room. Is that correct?

A That's right.

Q So he went, with the dog, directly to the lounge?

A That's right.

Q Do you know at which table he seated himself?

A Well, it was - - what I can remember, as he walked in, in the corner, like, to the left.

Q Do you know whether or not Judge Holt usually used the same table when he came to Riccio's to eat?

A Practically at all times except when there were more than four people there.

Q Pardon?

A Except when there were more than four people at one time.

Q Now, do you recall about what time it was when he reached the restaurant?

A To the best of my recollection - - well, I know it was past nine-thirty. It was between nine-thirty and ten o'clock, I'll say.

Q Between nine-thirty and ten o'clock?

A That's right.

Q Did you have occasion to see him seated at the table as he ate his dinner?

A Not me, no.

Q Did you remain outside?

A Well, I walked to the door and looked in.

Q Do you know whether or not anyone sat with him as he ate his dinner?

A It was about twenty minutes later when I walked in there and had a Coke.

Q What?

A About twenty minutes later I walked in the bar and got myself a bottle of Coke.

Q Who was there?

A I saw Mr. Riccio sitting alongside him, talking to him.

Q Was he sitting at Judge Holt's table, talking to him?

A Yes sir.

Q Do you know whether either one of them was having a drink?

A I couldn't say that. I didn't see any drinks being served. I seen - -

Q (After waiting) Are you through?

A The only thing I could see was the plate in front of him, and the bread.

Q Now, what happened - - - were you outside when Judge Holt left the restaurant?

A Yes sir.

Q Will you state about what time it was, as nearly as you can fix it?

A Well, it was at closing time. We usually close at eleven o'clock. I didn't look at the clock.

Q I can't hear you.

A I didn't look at what time it was, but it was closing time.

Q And when he got outside did he spend some time outside talking to Riccio?

A A few minutes, yes sir.

Q Did Riccio come outside with him?

A The Judge came out first and then Riccio walked out.

Q The Judge came out first?

A Yes sir.

Q And Riccio behind him?

A Yes sir.

Q Was anything said after Judge got out to his car about the automobile, or anything else?

A Well, Judge walked over to the car and he opened the door for the dog. It jumped in.

Q He opened the door for the dog?

A That's right. Then he walked around to the other side and got in the car, behind the wheel.

Q He did what?

A He got in the - - just a minute.

Q Take your time.

A He got in the car.

Q Do you want a drink of water?

A No sir. He got in the car, to the left, where the driver is, after he let the dog in. Then he started the motor. Then it made quite a noise, the motor did. Mr. Riccio asked him, "What kind of motor you go in that car?" He says, "Did you ever see one of these motors?" He says, "No," so he walked out by the car - - the Judge.

Q Who got out of the car?

A The judge, and opened up the hood and showed him the motor.

Q He opened up the hood and showed Riccio the engine?

A The motor, yes sir.

Q Was the motor still running?

A No. He shut it off.

Q He shut it off and then got out and showed Riccio the engine, the motor?

A That's right.

Q Then what happened? Did you look at the motor?

A I was standing, not too far away.

Q Go ahead. Do you want a glass of water?

A No.

MR. HUNT: Take your time.

(During the last minute or so the witness had appeared to be in some physical distress).

SENATOR CONNOR: Mr. Chief Justice, if the Court please, this man has testified about having a cardiac condition. Mr. Hunt has already offered him a glass of water. I'm willing to let him take a few minutes before we resume the interrogation. He is obviously not as strong as he was when he came in here, and he has had to stop and take some medicine.

CHIEF JUSTICE TERRELL: (To the witness): Would you like to retire?

THE WITNESS: No sir.

MR. HUNT: I may say, Your Honor, that this man did have an attack when they had the hearing before the House Committee, and a doctor was called and he was placed under medical attendance until the next day, and the Committee permitted him to return to Miami.

Now, I left it up to the witness as to whether or not he was able to testify.

MR. HOPKINS: If the Court please, I think this is the same place that he had the attack before the Committee. We would like to bring him back later.

MR. HUNT: Mr. Hopkins, I have no intention of trying to evade having the Senate know everything that this witness knows.

CHIEF JUSTICE TERRELL: I suggest that the Sergeant-at-Arms take him out, where he can lie down.

THE WITNESS: I'm all right.

MR. PIERCE: He says he's all right, Your Honor.

MR. HUNT: Are you all right, Mr. Witness?

THE WITNESS: I'll just take it easy, that's all.

MR. HUNT: Do you feel all right?

THE WITNESS: Yes sir.

MR. HOPKINS: Judge Hunt, do you want to dismiss the witness at this time?

MR. HUNT: I think the witness would prefer to try to go ahead, so he can return to Miami. Do you feel like it, Mr. King?

THE WITNESS: I can finish it all right.

MR. HUNT: Let us try it a little further, Judge. If he shows evidence of fatigue we will quit.

BY MR. HUNT:

Q Did the Judge show him the motor?

A So the Judge showed the motor and then put the hood back again, and he sat down in the car and started the motor. He says, "Riccio, come on for a ride."

Q "Come on for a ride"?

A Yes.

Q He said that to Riccio?

A Yes sir. So Riccio walked closer to the door of the car, and the dog kind of growled at him.

Q Was that on the dog's side of the car?

A Yes sir.

Q You say the dog growled at him?

A Yes sir.

Q What did Riccio decide?

A He says, "I'm not going with this fellow in the car."

Q He didn't go riding?

A No; and then he just started the car, and there was a red light, and he waited for the red light, and then he went on and made a right turn when the green light came, up 79th Street.

Q Is that the last you saw of him?

A That's the last I saw of him.

Q Where did you next see him, Mr. King?

A I haven't seen the Judge. The next day in the paper I see the terrible accident.

Q Did you learn the next morning that he had been injured?

A Yes, very bad.

Q Can you state whether or not that next day an investigator came out to talk to you and Mr. and Mrs. Riccio and Mr. Morelli about what had happened?

A Well, I don't know whether that was the next day. The next day I was sick in bed. I didn't work that day.

Q You don't recall?

A I don't recall. It may have been a day after, or so.

Q Do you recall an investigator coming by, talking to you about the matter?

A You mean right after the accident?

Q Yes.

A I don't recall.

Q Anyhow, you were not there the next day?

A No.

Q All right.

A You see, I don't work steady. I just work when I feel like it. I don't stay there all the time.

Q You are off and on?

A That's right.

Q Ordinarily, you don't have any business there until the evening, anyhow, do you?

A That's right.

Q Mr. King, are you related to Mr. Riccio?

A Yes sir.

Q What way?

A He is married to my step-daughter.

Q She was living at the time of this accident, was she not?

A She was.

Q She has now passed on?

A She passed on just before the first trial.

Q Up here in Tallahassee?

A No, she passed in Miami. She died there.

Q But the first trial, you say -- just before the first trial?

A Yes.

Q You mean the other time you were here in Tallahassee?

A That's right. I was here -- the second day after I got here.

MR. HUNT: Take the witness.

MR. HOPKINS: If the Court please, we prefer not to take the responsibility of questioning this witness, unless he is examined. We would like for him to be examined by a doctor, and then we may have an extended cross examination.

MR. HUNT: Your Honor please, the witness has stated his preference for undergoing examination now, so he can return to Miami. I think this witness has had this condition long enough to know how he is. He's got his pills in his pocket -- to know whether or not he can stay here and whether is able to stand examination. Mr. King, is that right or wrong?

THE WITNESS: That's right.

MR. HUNT: How do you feel now?

THE WITNESS: I feel a little nervous, a little pain.

MR. HUNT: Would you rather come back tomorrow or continue on now?

THE WITNESS: I would like to continue on while I'm here. It would upset me more. I am more relaxed now.

MR. SUMMERS: Mr. Chief Justice, I might add, for the benefit of Mr. Hopkins, that the House Committee had a local doctor examine this gentleman before, and he refused to give his permission, and I think any doctor in Tallahassee would also refuse, not knowing the history of the witness' cardiac condition.

MR. HOPKINS: Do I understand that the doctor refused to let him continue to testify?

MR. SUMMERS: He refused to take the responsibility for it.

MR. HOPKINS: Well, I have only one question, then.

CROSS EXAMINATION

BY MR. HOPKINS:

Q Who owns Riccio's?

A It's a corporation.

Q Who owns the corporation, the stock?

A I didn't hear that.

MR. HUNT: Your Honor please, this witness, in chief, has not undertaken to testify about the property ownership of Riccio's restaurant, and it is not in cross of anything brought out on direct, and we object.

MR. HOPKINS: We would like to save bringing him back as our witness, if you will permit us to ask the question -- in view of his condition.

MR. HUNT: Go ahead.

BY MR. HOPKINS:

Who owns this stock in Riccio's?

A I don't know, sir.

Q Do you own any?

A No sir.

Q Does Joseph Riccio own any?

A Who? I didn't hear that.

Q Does Riccio own any?

A Mrs. Riccio?

Q Mr. Joseph Riccio?

A Oh, Joseph Riccio. I don't know whether he owns stock or not, but he was operating it.

Q Tell me, is Joseph Riccio a professional gambler?

A To my knowledge, I don't know whether he's a professional gambler or not.

Q And he is your son-in-law?

A That's right.

Q Where is Riccio, by the way?

A I can't hear very good.

Q Where is Joseph Riccio?

A Where is he?

Q Yes.

A He's sick. He don't feel good.

Q He can't make it?

A He says he's not feeling very good.

Q He can't make it up to Tallahassee?

A Well, I don't know if he can or not. I guess the doctor said --

Q Has he also got a heart ailment of some kind?

A You see, the doctor comes to see him every day.

MR. HOPKINS: I have no further questions.

RE-DIRECT EXAMINATION

BY MR. HUNT:

Q Mr. King, Mr. Riccio was here and testified before the House Committee, didn't he?

A Yes, he did.

MR. HUNT: No further questions. You can go.

(Witness excused).

MR. HUNT: Will you call Judge Prunty, please?

Thereupon,

JUDGE JOHN W. PRUNTY,

a witness called and duly sworn in behalf of the Respondent, was examined and testified as follows:

MR. HUNT: Your Honor please, Judge Prunty will be before the Senate as a witness in other phases of the proceeding, and we are calling him at this time only as pertains to the accident.

DIRECT EXAMINATION

BY MR. HUNT:

Q Will you please state your name?

A John W. Prunty.

Q You are a Circuit Judge of the Eleventh Judicial Circuit?

A I am.

Q On what date did you take office as Circuit Judge?

A January 13, 1956.

Q Did you take office by virtue of an appointment of the present Governor?

A I did.

Q Did you thereafter run for reelection to that office?

A I did.

Q Were you reelected?

A I was reelected.

Q Judge Prunty, how long have you resided in Miami?

A Since 1918.

Q Where did you attend school?

A I attended the public schools of Miami. I went through the grammar schools and the high school. I graduated from the Miami High School in 1927.

Q Where did you receive your higher education?

A At the University of Florida.

Q Did you take a Law Degree at the University of Florida?

A I received my AB Degree in 1931 and my Law Degree, a degree of Juris Doctor, in 1933.

Q Did you thereupon take up the practice of law in Miami in 1933?

A I did, in 1933, and I have been there ever since.

Q When did you first meet and know Judge Holt?

A I became acquainted with Judge Holt in 1924 or '25, whenever he came to the community. I became acquainted with him through the Trinity Episcopal Church. He was my Sunday School teacher.

Q Do you know where Judge Holt came from when he came to Miami?

A From Tennessee, I believe.

Q Do you know what University he attended?

A Vanderbilt.

Q Do you know where he had resided in Tennessee?

A I believe in Nashville.

Q You knew him when he arrived in Miami?

A When he arrived in Miami, yes.

Q You say you were both members of the same church?

A Members of the same church, and he served on the vestry of that church, I recall, and I served with him, in later years, for several years.

Q You say he for a time was your Sunday School teacher?

A Yes, that's right.

Q For what period of time?

A I would say two or three years, along in 1924 and '25, at the time I was in High School.

Q Have you known Judge Holt throughout this period as an active member of the church?

A Yes, I have. He has been a very active member of the church.

Q Did you say that was the Episcopal Church?

A Yes.

Q Judge Prunty, do you belong to any fraternal organizations in which Judge Holt is a member?

A Yes. I am a Mason and he is a Mason, and we belong to the Shrine, a Shrine Temple in the Miami area.

Q Any others?

A We belong to the Jester group, which is a group of Shriners, a Masonic organization; and we both belong to the Navy League.

Q Any legal fraternities?

A Yes, we both happen to be members of Phi Delta Phi, a legal fraternity.

Q Has your relationship with the Holt family been more or less intimate throughout these years?

A Yes. Judge Holt and I have been good friends, good social friends, for a number of years, and his family and my

family have been good friends for a number of years. I have visited in his home and he has visited in my home.

Q I will ask you to state, Judge Prunty, whether or not you and Mrs. Prunty attended a party at the Dodge home in Miami Beach in December of 1955, December 20th?

A We did.

Q Will you describe to the Senate what kind of a party that was with respect to the age groups in attendance?

A The party was given by a Mr. and Mrs. Dodge, who are residents of Miami Beach, at their home on North Bay Road. In my family are two teen-age daughters. This party was a party that was being given for the teen-aged daughter of the Dodes, who was making her debut, her coming-out party, and I presume we were included mainly because of our teen-aged daughters, who were in her general teen-age group.

Q Were your daughters there that night?

A Pardon?

Q Were your daughters there that night at the Dodge party?

A Yes, both of our daughters were in attendance, our teen-aged daughters.

Q Does Judge Holt have a son in the same general age group?

A Yes, he has a teen-aged son and he was in attendance at the party also.

Q Go ahead.

A The party consisted of over five hundred guests. It was quite a large party. More than half of them, I suspect, were teen-agers.

Q Judge, how did they handle that many people there at the house that night?

A You went to the house and you were greeted by the host and hostess, and you passed in through the house out into a living yard, a living area. They had a huge tent there. They provided that, and the party was in that tent.

Q Where was the tent?

A That would be in the yard.

Q Would we call it the back yard?

A In the back yard.

Q Does that back yard back up to the bay waters? Is that on the bay?

A On the bay. The back yard does.

Q It fronts on Biscayne Bay?

A On Biscayne Bay.

Q Is that a large residence and a large yard?

A A large residence; actually an estate.

Q Now, as you went through the house and into the back, where the tent was, were the young folks and the old folks all together or did they stay divided up?

A Well, the party was in the same general area, but, as age groups are wont to do, they more or less divided up. There was an orchestra and a dance floor, and the young people engaged in dancing activities.

Q Well, I understand that all kinds of beverages were served that night?

A My recollection is that there was an open bar where you could obtain anything from Coca Cola to champagne.

Q How many bars were there, if you recall?

A I recall one.

Q Was that out in the yard?

A Yes, they were in the yard.

Q Under the tent?

A Under the tent.

Q Was that a large bar or a small bar?

A Well, I don't know how to compare bars. They weren't extensive. I think there probably were two, one in one end of the tent and one in the other end of the tent. I think they were probably manned by one bartender, possibly two bartenders.

Q Do you recall what time the party was supposed to start and what time it was supposed to end?

A Yes. My recollection is that it was seven to nine. It was an early party.

Q Seven to nine?

A P.M.

Q Do you recall the time that you and Mrs. Prunty arrived at the party?

A We arrived about a quarter of eight.

Q You do recall how long you stayed?

A We stayed until eighty-thirty or a quarter of nine. About a quarter of nine we departed.

Q Now, will you state whether or not you, yourself, enjoyed a cocktail or anything to drink on that occasion?

A Yes. I had one drink on that occasion.

Q Did most of the old folks that you saw around there that evening seem to be enjoying the cocktail party?

A Yes, I think they were. It was the beginning of the Christmas Season. I might have enjoyed an additional cocktail, except at that time I was suffering from a stomach difficulty and, under the directions of my physician, I could only have one highball before dinner.

Q So you had your medical quota that evening. Is that correct?

A Yes.

Q Did you see Judge and Mrs. Holt at that party?

A Yes, I did.

Q When did you first see them?

A It was some time after we arrived at the party. I would say it was possibly ten or fifteen minutes.

Q Was that around the tent area?

A In the tent area, yes.

Q Where several hundred, as you would estimate, other people were milling around?

A Yes. It was a very large party. I would say there were close to five hundred people at the party.

Q Did you talk to Judge Holt during the course of the party?

A I did.

Q Can you recall in what particular part of the property you saw him, or anything pertaining to his mannerism or condition - - anything that would be of interest to this Court?

A Well, I saw him in the general tent area, greeting and talking to various people that he knew there. I approached him and greeted him, spoke to him. In fact, I recall that I discussed the Jesters' meeting.

Q What discussion did you have with him pertaining to the Jesters' meeting?

A Well, there was a meeting or a Christmas party at the

Jester organization, of which we were both members, that same evening.

Q That same evening?

A That same evening. It was the annual Christmas party, sponsored and usually dedicated to Mr. James Bright.

Q Who is Mr. Bright?

A He is one of the founders of the community of Hialeah and Hialeah Park, one of the oldest residents of the community.

Q A member of the Jesters?

A A member of the Jesters - - a very elderly gentleman.

Q So you had discussed with Judge Holt about going to the Jesters later on that evening?

A That's right.

Q What was the discussion?

A The discussion was that, since this was an early party and that we hated to miss the annual Christmas party at the Jesters, that we go down there, if we chose to do so, and he advised me that he didn't think he cared to go. He gave as his reason that his son had some house guests and that there was no one at home and he thought that somebody ought to be home.

Q He thought somebody ought to be home?

A Yes.

Q Did you see him more than once during that evening?

A Yes. I saw him several times in the course of the crowd there. I don't think I talked to him in the tent area any further than on that one occasion. I did see him at the time we were leaving.

Q Did you see Judge Holt with a glass in his hand, that would indicate that he might be enjoying a social drink?

A I don't recall whether he had a glass in his hand or not. He could have.

Q But do you know that Judge Holt is not adverse to taking a social drink on a social occasion?

A I've seen him take a social drink, yes.

Q Now, when was the last time you saw him at the Dodge party?

A As we were leaving.

Q I want you to state to the Senate, on your oath, now, everything you recall about your leaving the Dodge party, with relation to Judge and Mrs. Holt.

A Mrs. Prunty and I left the Dodge party at approximately a quarter of nine. Our teen-aged daughters stayed on. They were meeting some dates there and were going with their respective escorts. The Holts, that is, Judge and Mrs. Holt, were leaving the party just ahead of us, and as they went from the tent area into the residence they spoke to Mr. and Mrs. Dodge and - -

Q Now, were you and Mrs. Prunty immediately behind them?

A Immediately following them. They spoke to Mr. and Mrs. Dodge, thanked them for the party and expressed their appreciation for the good time that they had had, and went on out the front door into the area where the cars were being parked by attendants.

Q Would that have been on the front porch?

A I don't recall that the house had a porch. It had a - - well, there is an opening. You pass through what is like a hallway or passageway, and the Holts were inside the passageway or the house there.

Q Did you and Mrs. Prunty follow them out to the car-calling area?

A We did, and I gave the valet or parking attendant the check for my car and he went to get my car. In the meantime the vehicle, a Ford Station Wagon, that the Holts came to the party in, arrived. It was being driven by a boy named Joe, whom I had met before.

Q Who is Joe?

A Well, he is a colored boy that works at a filling station.

Q Right near the Holt home?

A Near the Holt home. He occasionally works for them. He drove them occasionally and worked around their premises. Joe came up with their Ford Station Wagon, and at that time we said that we were going to get some dinner at a restaurant and asked them if they would join us. They declined, and got into their Station Wagon and were driven away. About that time our vehicle arrived and we left.

Q I want you to state to the Court in what condition Judge Holt seemed to be with respect to sobriety?

A Judge Holt was completely sober and completely in possession of all faculties. He greeted the Dodges -- rather, said goodbye to the Dodges -- in a very normal, pleasant manner.

Q Did he walk with a normal gait?

A Completely.

Q Did he get in the car by himself?

A He got in the car entirely by himself.

Q Is it true or untrue that Judge Holt had to be assisted to his automobile by two people?

A It is absolutely untrue.

Q That is an absolute falsehood?

A Complete and absolute, I would say.

MR. HUNT: Take the witness.

CROSS EXAMINATION

BY MR. HOPKINS:

Q Judge, at this party -- I guess you would call a person that is under the influence "tight." Is that right?

A I guess so.

Q And a person that might be under the influence at the party at this time would be called "tight." Is that right? Would you describe a person as "tight" when he is under the influence of whiskey?

A Yes, I think that is one of what might be called the degrees, you might say, of inebriation.

Q I just want to get some idea about the party. Did you see anyone during the party or anybody at the party or immediately thereafter that was tight?

A No, I did not. Frankly, it was not that kind of a party. There were a number of young people there, a number of children, so to speak, and teen-agers. The party was really for them. It was not the kind of a party where you would even expect to find anybody tight, and I certainly didn't see anyone that was tight.

Q What did you do after the party?

A What did I do?

Q Yes sir.

A I went, with Mrs. Prunty, to a restaurant and had dinner, and then went home.

Q Did you later learn of this accident?

A I did.

Q Approximately what time was that?

A Some time around midnight or thereafter.

Q Did you go to the Police Station?

A Go to the Police Station?

Q Yes.

A Later, the following morning, I went to the Police Station with Mrs. Kurtz.

Q Is that the daughter?

A That is Judge Holt's daughter.

Q Was she completely sober at that time?

MR. HUNT: Now, Your Honor please. That's a very silly, ridiculous question, and we object to it. It is prejudicial and highly improper, and counsel knows it.

MR. HOPKINS: If the Court please, I asked the question if he had seen anybody tight that night --

MR. HUNT: We heard your question, Mr. Hopkins. Will the Court rule on my objection?

CHIEF JUSTICE TERRELL: I sustain the objection.

BY MR. HOPKINS:

Q I believe you did testify, Judge, that you didn't see anyone there that night that you considered under the influence of whiskey. Is that correct?

A I saw no one at the party that I would consider under the influence of intoxicants.

Q Did you see anybody later that night or that morning, who had been at the party, who was under the influence of whiskey?

MR. HUNT: Your Honor, that could have absolutely no bearing on the party, and we object to it.

CHIEF JUSTICE TERRELL: Objection sustained.

Q What time did you go to the Police Station, Judge?

A To the Police Station?

Q Yes.

A Probably two o'clock in the morning.

Q Did you go there on one occasion or more than one occasion?

A One occasion.

Q Was Mrs. Kurtz at the Dodge party? Did you see her there?

A I did not see her there.

Q Was Judge Holt's son there?

A He was.

Q What is his name, by the way, Judge?

A George Edward Holt III, I believe, or II.

Q Did you see him at the Police Station?

A I did not.

Q Judge, do you know whether or not Judge Holt went back to the party after you saw him leave?

A I do not.

Q Approximately how many people will you judge were still at the party at the time you left?

A That were at the party?

Q At the party.

A Mostly the younger people were left there. The older people were leaving gradually, going out. I would say that there were two hundred people there.

Q Judge, what type of automobile were you in that night?

A An Oldsmobile.

Q Would you give us a little better description of it, the year model and color?

A A 1955 Oldsmobile, two-door, blue and white, white sidewall tires, radio.

Q Judge, maybe I didn't follow you. Did you go to the Jesters Club affair?

A I did not. I thought I made myself clear that my wife and I went to a restaurant and had dinner and went home.

MR. HOPKINS: I have no further questions.

RE-DIRECT EXAMINATION

BY MR. HUNT:

Q Judge, what restaurant did you go to?

A The Post and Paddock.

Q What time did you get there?

A Approximately nine o'clock or shortly thereafter.

Q Are you acquainted with this nice looking witness from Miami Beach that was here the other day, named Herlofson?

A I saw him for the first time in the witness room last week.

Q Ronnie Herlofson. Did you see him at the Dodge party?

A I don't recall seeing him at the Dodge party.

Q What was the name of that restaurant?

A The Post and Paddock.

Q Did you see Ronnie at the Post and Paddock?

A I did not.

MR. HUNT: No further questions.

RE-CROSS EXAMINATION

BY MR. HOPKINS:

Q Was Judge Holt's son still at the party when you left?

A Yes.

Q Did you see him in front of the house, in the automobile, as Judge Holt was leaving?

A I did, and he told his parents goodbye and he and his friends apparently were to go out later.

Q Then he stayed at the party after Judge Holt left. Is that correct?

A I presume so. I left right behind the Judge.

MR. HOPKINS: No further questions.

MR. HUNT: Thank you, Judge.

(Witness temporarily excused).

MR. HUNT: May we have a couple of minutes, Judge?

CHIEF JUSTICE TERRELL: Yes.

Whereupon, beginning at 4:35 o'clock p.m., the Senate stood in recess for a few minutes.

CHIEF JUSTICE TERRELL: Order in the Court. A quorum is present.

SENATOR SHANDS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Shands.

SENATOR SHANDS: I would like to make a motion, but before I do so I would like to explain. I would like to make a motion that we go into Executive Session. However, I am sure that motion will be made that we meet in the morning at whatever time has been arranged for the morning, and I would like to go right on and adjourn just as soon as we get through with this short Executive Session.

I move you that we go into Executive Session.

SENATOR DAVIS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Davis.

SENATOR DAVIS: Mr. Chief Justice, I would like to suggest that the defense has stated that they have finished this particular phase of the case, and, with the available witnesses, they can finish in the morning by twelve or shortly thereafter.

I therefore move, as a substitute motion, that we do now go into Executive Session and that when we finish with the Executive Session that we adjourn.

(The motion was seconded from the floor).

CHIEF JUSTICE TERRELL: Gentlemen, you have heard the motion - -

SENATOR JOHNS: Mr. Chief Justice.

CHIEF JUSTICE TERRELL: Senator Johns.

SENATOR JOHNS: During this Trial, members of the Court, we have gone into a number of Executive Sessions, and I cannot see any advantage of it.

SENATOR SHANDS: Mr. Chief Justice, if the Senator will yield, I want to assure you that it is nothing in connection with this trial.

SENATOR JOHNS: Well, the thing that I was going to say, Senator, is let's keep our cards out on top of the table and let everybody hear what we've got to say, and stop this Executive Session business.

SENATOR SHANDS: It is not a question of hiding anything. Anything I have got to say, I would be perfectly willing to say openly. This question of saving time - -

SENATOR JOHNS: I just think that we ought to do everything we're going to do in the open.

SENATOR SHANDS: Senator, you were the very first one that made a motion here for an Executive Session.

CHIEF JUSTICE TERRELL: Well, you have heard the motion, gentlemen. All in favor of going into Executive Session, say "aye."

(Those in favor of the motion so voted)

CHIEF JUSTICE TERRELL: Opposed, "no."

(There were no votes in opposition to the motion).

Whereupon, the Senate, sitting as a Court of Impeachment, went into Executive Session at 4:44 o'clock, P. M., emerged therefrom at 4:54 o'clock, P. M., and, on motion of Senator Davis, previously adopted stood adjourned until 9:30 o'clock A. M., Friday, August 2, 1957.